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Addendum

EGYPT*

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CONTENTS

Page

Introduction 1

Chapter

I. Principles of human rights and the Egyptian Constitution 3

II. Egyptian legislation and principles of human rights 9

Part 1: The Egyptian Penal Code and penal legislation concerning principles of human rights 9

* For the initial report submitted by the Government of Egypt, see CCPR/C/26/Add.1/Rev.1; for its consideration by the Committee, see CCPR/C/SR.499, 500 and 505 and Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 40 (A/39/40), paras. 287-315.

GE.92-17377/4894B (E)

CONTENTS (continued)

Page

Part 2: The Egyptian Code of Criminal Procedure and legislation relating to principles of human rights 15

Part 3: The Egyptian Juveniles Act and principles of human rights 23

Part 4: The Egyptian Emergency Act and principles of human rights 25

Part 5: The Egyptian Judicial Authority Act and principles of human rights 28

III. Egypt's contribution to international human rights instruments 30

Conclusion 32

Annexes

I. List of the Legislative Acts, Decrees, Regulations and Judgements referred to in Annex II 34

II. Table comparing the articles of the International Covenant on Civil and Political Rights with the Egyptian Constitution and legislation 36

INTRODUCTION

1. It is not surprising that the concern which the international community has shown for human rights is undoubtedly among the principal international achievements marking the close of the twentieth century, since it constitutes a happy ending to mankind's odyssey across the ages and in past years of the previous and present centuries, which have been characterized by incidents and events that are now regarded as flagrant violations of human rights, ranging from individual and collective acts of torture and persecution to the colonization of some States by others.

2. The Universal Declaration of Human Rights, which was proclaimed by the United Nations on 10 December 1948, was a culmination of the international endeavours that led to the Charter of the United Nations and also a natural result of the continuation of those endeavours to consolidate and reaffirm that fledgling Charter. At the same time, the Declaration inevitably reflected the new situation and the international requirements that appeared on the world stage in the wake of the two world wars in which so many countries were embattled for a record period of time and which left behind a legacy of horror, destruction and devastation. In the light of those sufferings, the peoples of the world felt obliged to formulate objective principles and common concepts to ensure prosperity, security and peace for all nations. The Preamble to the Declaration candidly reflected those human ordeals by stating that recognition of the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, that disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, that it is essential that human rights should be protected by the rule of law and that States should cooperate to ensure respect for and observance of human rights and fundamental freedoms through a common understanding of those rights and freedoms.

3. The international community's awareness of the need to ensure respect for the human rights of all persons assumed a variety of new dimensions and developed in a rapid and far-reaching manner. Within a short period of time after the proclamation of the Universal Declaration of Human Rights on 10 December 1948, the international community succeeded in promulgating numerous provisions concerning various aspects of human rights through international covenants and conventions to which States hastened to accede in order to keep pace with mankind's resolute progress towards affirmation of, and respect for, those rights.

4. In the light of this overwhelming trend towards international awareness and realization of the important role which human rights play as the cornerstone of human progress and prosperity, the States that have not acceded to the international covenants and conventions adopted in this field constitute a minority that is isolated from the international community and, sooner or later, they will inevitably accede to those instruments either through enhanced awareness on the part of their regimes or by virtue of the sincere desire of their peoples, which will reject any regime that hesitates or fails to keep pace with the progress of world civilization in this regard.

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5. The international declarations, covenants and conventions adopted by the General Assembly of the United Nations and its organs, acting on behalf of the international community, with a view to affirming and expanding the scope of human rights are a faithful reflection of the extent to which human rights have become a matter of deep international concern. They also reflect the extent to which all States throughout the world are aware of the fundamental and pioneering role which human rights can play in achieving a better future for mankind as a whole.

6. In its capacity as the international organization representing all States of the world, the United Nations attaches high priority to human rights and its diligent endeavours in this field have assumed tangible form in the numerous relevant declarations and conventions to which reference has already been made. In view of the high status accorded to human rights instruments, States with common concerns, problems and situations have used them for the formulation of a broader and more precise concept of human rights as international legal instruments that provide more effective safeguards to ensure that those rights are protected and respected.

7. In this connection, the European Convention on Human Rights, which was adopted by the European States at Rome on 4 November 1950, stipulated that its purpose was to promote closer union among the contracting parties with a view to ensuring universal and effective recognition of human rights.

8. The American Convention on Human Rights, which was adopted on 22 November 1969, set more extensive standards for economic, social and educational rights and covered all the new fields in which the international human rights movement had made progress in the preceding period.

9. Our African continent has not been left behind in this worldwide trend. On the contrary, due to the many types of colonialism and racial discrimination with which our history abounds and which have left a legacy of underdevelopment as a result of the inequitable international economic order, our continent is in the best position to appreciate the importance of defence of the rights of individuals and peoples as an indispensable basis for peace, development and political, economic and social solidarity at the national and international levels.

10. Accordingly, in 1981 at Nairobi, the Organization of African Unity adopted the African Charter on Human and Peoples' Rights as an expression of that organization's full awareness of its duty to promote and protect human and peoples' rights and freedoms, bearing in mind the fundamental importance which Africa has consistently attached to those rights and freedoms. The Charter stressed the need to ensure that special concern was shown for the right to development and the indivisible nature of political, civil, economic, social and cultural rights. It also reaffirmed the need to eliminate colonialism and racism and secure the full liberation of the African States.

11. These regional instruments have contributed to the wider realization of some of the rights recognized in the Universal Declaration of Human Rights, since they made provision for the establishment of bodies to promote the consolidation and codification of these rights with a view to securing their

legal protection and establishing a system under which their violators would be held accountable. The European Convention gave rise to the European Commission on Human Rights and the European Court. The American Convention likewise gave rise to the American Commission on Human Rights and the American Court. Both Commissions are competent to receive and examine complaints concerning violations of human rights and the two Courts are empowered to impose the penalties prescribed in the Conventions for such violations. The African Charter has similarly given rise to the African Commission on Human Rights.

12. In the light of the above historical review of the international endeavours that have been made in the field of human rights through the United Nations or other regional organizations, Egypt is submitting this report.

I. PRINCIPLES OF HUMAN RIGHTS AND THE EGYPTIAN CONSTITUTION

13. The drafters of the Egyptian Constitution, which was promulgated in 1971, took great care to ensure that all the political, economic and social aspects of human rights were taken into account and given legal expression, as can be seen from the Preamble to the Constitution which reads as follows:

> "Undertaking fully and unconditionally to exert every effort to achieve peace, based on justice, for our world,
>
> Believing that the political and social progress of all peoples can be achieved only through the freedom and independent will of those peoples and that no civilization is worthy of its name unless it is free of all forms and types of exploitation,
>
> Convinced that the national and international experiences of our nation are conducive to integration and even overall unity between the universal human struggle for political, economic, cultural and intellectual freedom and the battle against all the forces and remnants of backwardness, domination and exploitation,
>
> Being aware that man's humanity and dignity are the guiding principles which have directed the course of mankind's tremendous progress towards its highest ideals, that the dignity of the individual is a natural reflection of the dignity of the nation, and that the rule of law, apart from being an indispensable guarantee of individual freedom, is also, at the same time, the sole basis of the legitimacy of authority ...".

14. In this way, the Egyptian Constitution defines its goals, which are in step with the course of history and in keeping with all the changes and new developments at the international level in the field of human rights, for which it shows due concern by according them the highest status. In fact, every chapter of the Constitution and most of its provisions embody the principles that have been adopted by the international community and expressed in international covenants, declarations and conventions in this regard. These principles are detailed below, in the classification and sequence in which they appear in the Constitution.

Principles of human rights embodied in chapters I and II of the Constitution

15. (a) The people are the source of authority and governmental authority is anchored in the will of the people (art. 3).

(b) Prohibition of exploitation, equitable distribution of public duties and responsibilities and protection of legitimate earnings (art. 4).

(c) Political freedom and a multi-party political system (art. 5).

(d) Equality of opportunity (art. 8).

(e) Protection of the family, particularly mothers and infants, and care of children and youths (arts. 9 and 10).

(f) Political, social and economic equality between men and women.

(g) The right to work, recognition of merit and prohibition of forced labour.

(h) The right of access to public office and the inadmissibility of dismissal therefrom, except as a disciplinary measure or in the circumstances defined by law (art. 14).

(i) The right to free education at all levels, education being compulsory at the primary level and the State being under an obligation to extend its compulsory nature to other levels (arts. 18 and 20).

(j) The right to cultural, social and health services, social insurance, disability and unemployment benefits and a retirement pension (arts. 16 and 17).

(k) Equitable distribution of national income, a guaranteed minimum wage, endeavours to eliminate unemployment, and participation by workers in management and profits (arts. 23, 24, 25, 26 and 27).

(l) The right to establish cooperative associations, which the State has an obligation to protect, encourage and support, in addition to ensuring their self-management (art. 28).

(m) The safeguarding and protection of private property, which cannot be sequestrated except under the terms of a court order, nor can it be expropriated, except in the public interest, or nationalized, except for considerations of the public interest and public welfare in return for fair compensation in accordance with the law (art. 34).

Principles of human rights embodied in chapter III of the Constitution

16. This chapter of the Constitution, which defines public freedoms, rights and duties, reflects many of the principles embodied in international human rights instruments. These principles include:

(a) Equality and the prohibition of discrimination on grounds of sex, origin, language, religion or belief, since all citizens are equal before the law and in regard to their public rights and duties (art. 40).

(b) Freedoms and rights, namely individual freedom; the right to privacy and inviolability of home and means of communication; freedom of movement, migration, opinion and belief; the right to vote and to stand as a candidate in elections; freedom of the press and of scientific research; freedom of assembly and association; the right to form trade unions; and the right of political asylum. These rights and freedoms are recognized in articles 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 62.

(c) The invalidity of evidence obtained under coercion or threat (art. 42).

(d) The principle that criminal and civil proceedings in respect of violations of the public rights and freedoms guaranteed by the Constitution and the law are not subject to a statute of limitations and that the State guarantees compensation for the victims of such violations (art. 57).

Principles of human rights embodied in chapter IV of the Constitution

17. Chapter IV of the Egyptian Constitution, which is entitled "The rule of law", shows due regard for numerous principles of human rights, as detailed below:

(a) The independence and immunity of the judiciary; the right of litigation, legal redress and appeal; and the principle that no act or administrative decision can be declared immune to judicial control (arts. 65 and 68).

(b) The principle that penalties must be personal, that there is no crime or punishment except as defined by law, that penalties can be inflicted only for acts committed subsequent to the entry into force of the legislation prohibiting them, and that criminal proceedings can be instituted only by order of a judicial authority (arts. 66 and 70).

(c) The right to defence, in person or by proxy, and the principle that the law must grant indigent persons the means to resort to the courts and to defend their rights (arts. 67 and 70).

(d) The principle that every person who is arrested or detained must be informed immediately of the reasons for his arrest or detention and has the right to contact any person whose assistance he wishes to seek, as well as the right to lodge a complaint with the courts, within a specified period of time, against any measure taken to restrict his freedom (art. 71).

18. The above review of the provisions of the Egyptian Constitution clearly shows that all the principles of human rights and freedoms embodied in the Universal Declaration of Human Rights are explicitly provided for in the Constitution. Moreover, the Constitution does not merely reiterate the wording of these principles; it also surrounds these rights and freedoms with a strong bulwark in order to ensure that they are respected, put into actual

application and protected from violation or infringement by any laws or regulations that might be promulgated. This has been achieved by the establishment of the Supreme Constitutional Court, which is an independent judicial body (art. 174 of the Constitution) and is vested with exclusive jurisdiction in regard to the constitutional control of laws and regulations and the interpretation of legislative texts (art. 175 of the Constitution). The Constitution also stipulates that its members cannot be removed from office (art. 177) and that its decisions concerning constitutional proceedings and the interpretation of legislative texts must be published in the Official Gazette so that they will be known to all (art. 178). The Court's rulings in matters of constitutionality and its decisions in regard to interpretation are binding on all, including the State authorities (art. 49 (1) of the Supreme Constitutional Court Act No. 48 of 1979).

19. Since the entry into force of the Egyptian Constitution of 1971, as amended in 1980, many juristic opinions and interpretations have been published concerning the practical application of its provisions. It was only natural that this process should culminate in the establishment of the Supreme Constitutional Court which, as the competent body in this field, has handed down numerous judgements confirming and consolidating the noble concepts and lofty values embodied in the constitutional provisions concerning principles of human rights and freedoms. Legislative texts that contradict, violate or prejudice those rights have been declared unconstitutional by that Court. Some of the principles on which the Supreme Constitutional Court has issued rulings are listed below.

The inadmissibility of sequestration without a court order

20. The legislative provisions permitting the administrative sequestration of property have been declared unconstitutional on the ground that they violate article 36 of the Constitution, which prohibits the sequestration of private property except under the terms of a court order.

The principle that penalties must be personal and that there is no crime or punishment except as defined by law

21. The legislative provisions permitting police surveillance without a court order have been declared unconstitutional on the ground that they violate article 66 of the Constitution, which stipulates that there is no crime or punishment except as defined by law and that penalties can be inflicted only on the basis of a court judgement.

Protection of private property

22. The legislative provisions permitting the devolution to the State of property owned by natural persons and which has been sequestered in accordance with the Emergency Act have been declared unconstitutional on the ground that they violate article 34 of the Constitution under which private property is protected.

23. The legislative provisions limiting the amount of compensation payable to persons in respect of their property have been declared unconstitutional on the ground that they violate article 36 of the Constitution, which prohibits the public sequestration of property.

Political freedom and the right to form and join political parties

24. The legislative provisions depriving certain categories of citizens of their right to vote or stand as candidates in elections have been declared unconstitutional on the ground that they violate article 62 of the Constitution, which stipulates that citizens have a right and a national duty to vote, stand as candidates and express their opinions in referendums.

25. The legislative provisions defining circumstances in which a specific category of persons may be deprived of their right to form political parties to express their opinions have been declared unconstitutional on the ground that they violate articles 5 and 47 of the Constitution.

The right of litigation, legal redress and appeal

26. The legislative provisions under which an act or administrative decision may be immune to appeal or legal redress have been declared unconstitutional on the ground that they violate article 68 of the Constitution, which stipulates that no act or administrative decision can be declared legally immune to appeal.

Equality of opportunity

27. The legislative provisions under which certain categories of persons may be accorded special treatment in regard to enrolment in higher education, thereby enjoying priority over others who, in the light of objective criteria, have a greater entitlement to such enrolment, have been declared unconstitutional on the ground that they violate articles 28 (1) and 40 of the Constitution and infringe the principles of equality of opportunity.

28. The legislative provisions permitting discrimination among owners of real estate, by granting privileges to those who have special lease arrangements with their tenants, have been declared unconstitutional on the ground that they violate article 40 of the Constitution.

The right to form trade unions and associations on a democratic basis

29. The legislative provisions stipulating that the term of office of an elected member can be terminated, before its expiration, by a body other than the electorate consisting in the general assembly of the trade union have been declared unconstitutional on the ground that they violate article 56 of the Constitution, under which trade unions and associations must be formed on a democratic basis.

30. The legislative provisions under which persons convicted of offences preceding the date of entry into force of those provisions can be barred from membership of political parties or from engagement in political activity have been declared unconstitutional on the ground that they violate articles 66 and 187 of the Constitution.

31. In so far as the above-mentioned judgements handed down by the Supreme Constitutional Court are binding on all, including the State authorities, in accordance with the provisions of Act No. 48 of 1979, article 49 of that Act stipulates that they must be published free of charge in the Official Gazette within 15 days from the date on which they are handed down.

32. With regard to the legal effect of a judgement declaring the text of an enactment or regulation unconstitutional, the third paragraph of the same article prohibits application of the unconstitutional text with effect from the day following the publication of the judgement. Furthermore, with regard to the legal effect of a judgement under which a criminal provision is declared unconstitutional, the fourth paragraph of that article stipulates that all convictions based on that unconstitutional provision must be regarded as null and void.

33. It is clearly evident, therefore, that the human rights and freedoms contained in the international instruments that have been adopted in this regard are explicitly provided for in the Egyptian Constitution, as can be seen from the above. The Supreme Constitutional Court, which is responsible for monitoring the constitutionality of laws and regulations and interpreting legislative texts, protects and safeguards those rights and freedoms from any legislative violation thereof.

34. By virtue of this integrated constitutional structure, the explicit legislation in force and the effective protection provided by the judiciary, the cause of human rights and freedoms in Egypt is progressing steadily and enjoying respect, protection and continuity, as well as the means for wider dissemination and development, in the manner advocated and agreed upon in the international declarations and conventions concerning human rights.

35. Having reviewed the position of the Egyptian Constitution in regard to human rights and freedoms, we will now turn to chapter II, concerning the status of these rights and freedoms in the legislative sphere, which clearly shows the role played by the Egyptian Legislature in regard to these rights and freedoms. The reference numbers of the judgements handed down by the Supreme Constitutional Court in this connection can be found in the general comments on article 5 of the Covenant (see annex II to this report which also contains other judgements of the Supreme Constitutional Court, in addition to those already referred to above).

II. EGYPTIAN LEGISLATION AND PRINCIPLES OF HUMAN RIGHTS

Introduction

36. In this chapter, we will examine the position of the Egyptian Legislature in regard to human rights and freedoms, as well as the extent to which it is consistent with the international instruments adopted in this field. The position of the Egyptian Legislature is obviously compatible with those instruments in view of its commitment to the provisions of the Egyptian Constitution which, as already explained in chapter I, are consistent with the international instruments governing these rights and freedoms. Moreover, pursuant to article 2 of the Constitution, the Egyptian Legislature is committed to the principle of adopting the Islamic Shariah as one of its main sources of legislation.

37. The noble Islamic Shariah embodies values, principles and precepts that constitute a complete and integrated system which safeguards all the political, social and economic rights and freedoms of all persons, regardless of their religious beliefs. These are the rights and freedoms recognized in God's Holy Book (the Koran) and in the Traditions of His Prophet, which have been applied since the dawn of Islam fourteen centuries ago, before mankind had developed an ideological system for the regulation of these rights and freedoms in the manner to which it is now aspiring.

38. In this chapter, we will examine the status of human rights and freedoms in some of the legislation in force in Egypt and link its textual provisions to the corresponding provisions in the relevant international instruments. We will review a number of basic legislative enactments in the Egyptian legal system, such as the Egyptian Penal Code and penal legislation in so far as they relate to principles of human rights (Part 1), the Egyptian Code of Criminal Procedure and related legislation pertaining to principles of human rights (Part 2), the Egyptian Juveniles Act and principles of human rights (Part 3), the Egyptian Emergency Act and principles of human rights (Part 4) and the Egyptian Judicial Authority Act and principles of human rights (Part 5).

Part 1: The Egyptian Penal Code and penal legislation concerning principles of human rights

39. We wish to point out first of all that the Penal Code and the special penal legislation constitute a general framework for all the acts which are designated as offences therein. All acts designated as offences fall within two categories: the first focuses on natural persons and covers all acts prejudicial to human rights, freedoms and property, the commission of which constitutes a violation thereof; the second focuses on society as a whole, i.e. a group of individuals, and covers all acts the commission of which constitutes a violation of collective rights and interests which are protected and regulated by law.

40. Accordingly, all offences against human rights and freedoms, as recognized in international instruments, are punishable under the provisions of the Egyptian Penal Code. Murder, assault, abduction, rape, defamation, torture, abuse of authority and violation of privacy are offences prejudicial

to human rights and to the physical and mental integrity of the human person. Theft, arson, fraud, embezzlement, sabotage and vandalism are offences against inviolable private property. Treason, misappropriation of funds, bribery, falsification of documents, forgery, the causing of deliberate damage to the country, disruption of communications, sabotage of State-owned installations and other similar acts are, in actual fact, designated as criminal offences in the interests of society and all its members with a view to ensuring their security, safety and stability, safeguarding their interests and promoting confidence in their mutual relations. All these are among the rights recognized in international instruments (art. 28 of the Universal Declaration of Human Rights).

41. Apart from the above, in this part we will be reviewing, in particular, some of the general rules governing the procedural concept of crime and punishment, as well as some offences for which provision is made in the Penal Code and some of the special penal legislation relating to human rights and freedoms.

A. The general rules concerning criminal offences, as contained in the Egyptian Penal Code

42. Article 1 of the Code stipulates that its provisions apply to the commission in Egypt of any of the acts which it designates as criminal offences. Articles 2 and 3 define the circumstances in which its provisions can be extended to offences committed outside the country by reason of the nature of the offence or the nationality of the offender. The Code makes no reference to any distinction or discrimination whatsoever among the persons subject to its provisions. This is in accordance with article 40 of the Egyptian Constitution, articles 2 and 7 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.

43. Article 5 stipulates that offences must be punished in accordance with the legislation in force at the time of their commission. However, if legislation that is more favourable to the accused is promulgated after the commission of the offence and before final judgement has been handed down in connection therewith, it is applied instead of the earlier legislation. This is in accordance with article 66 of the Egyptian Constitution, article 11 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Civil and Political Rights.

44. Articles 54-76 of the Code make provision for general amnesties and pardons and regulate the effects arising from penalties relating to criminal liability and third-party rights. This is in accordance with article 6 of the International Covenant on Civil and Political Rights.

B. Violations of principles of human rights which are punishable under the Code

45. Any public official who, acting in his official capacity, deliberately stays, or refrains from, the execution of a judgement or an order issued by a court or any other competent authority and the execution of which falls within

his field of responsibility is punished by imprisonment and dismissal (art. 123 of the Penal Code). The designation of such acts as criminal offences is consistent with the provisions of article 72 of the Egyptian Constitution and article 2 of the International Covenant on Civil and Political Rights.

46. Extortion of a confession from an accused person through torture ordered or inflicted by a public official is punishable by hard labour or imprisonment for a term of 3 to 10 years and, if the victim dies, the offender is liable to the penalty prescribed for murder (art. 126 of the Penal Code).

47. The imposition on a convicted person by a public official of a punishment more severe than that to which the said person has been legally sentenced, or a punishment to which he has not been sentenced, is punishable by imprisonment (art. 127 of the Penal Code).

48. The use by a public official acting in his capacity as such of violence incompatible with human dignity or likely to cause physical pain is punishable by imprisonment or a fine (art. 129 of the Penal Code).

49. The Acts referred to in paragraphs 46-48 above constitute criminal offences under the Egyptian Penal Code. This is in conformity with the provisions of article 42 of the Egyptian Constitution, article 14 (g) of the International Covenant on Civil and Political Rights, articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the principles contained in the Code of Conduct for Law Enforcement Officials (annexed to the Standard Minimum Rules for the Treatment of Prisoners).

50. Any public official who, in his capacity as such, enters the home of any citizen without permission, except in the circumstances provided by law, or without observing the proper procedure prescribed therefor, is liable to a penalty of imprisonment or a fine (art. 128 of the Penal Code).

51. Any public official who, in his capacity as such, purchases real estate or movable property by force from its owner for himself or others is liable to a penalty of imprisonment and dismissal and is obliged to return the usurped property or its value (art. 130 of the Penal Code).

52. Violation of the privacy of citizens by eavesdropping or the employment of any photographic device without the consent of the person concerned or in circumstances other than those in which such is permitted by law, or the use of information obtained by such methods, is punishable by imprisonment, confiscation of the devices used and erasure or destruction of the recorded material resulting from the offence (art. 309 bis and 309/1 bis of the Penal Code).

53. Any threat to divulge information acquired by any of the methods referred to in the preceding paragraph with a view to inducing a person to carry out or refrain from a particular act is punishable by imprisonment, confiscation of the devices used and erasure or destruction of the recorded material (art. 309 bis, paras. 2, 3 and 4, of the Penal Code).

54. The penalties prescribed in the Egyptian Penal Code for the acts referred to in paragraphs 50 to 52 above are consistent with the provisions of articles 44, 45 and 57 of the Egyptian Constitution, as well as the provisions of art. 17 of the International Covenant on Civil and Political Rights.

55. The arrest, detention or imprisonment of any person without authorization from a competent judge, or in circumstances other than those in which such is permitted by law, is punishable by imprisonment or a fine (art. 280 of the Penal Code).

56. Any illegal arrest made by a person unlawfully wearing the uniform of a public official, acting in an unauthorized capacity or presenting a spurious order allegedly issued by the authorities is punishable by imprisonment and the penalty is a term of hard labour if such arrest is accompanied by threats or physical torture (art. 282 of the Penal Code).

57. The penalties prescribed for the acts referred to in paragraphs 55 and 56 above are consistent with the provisions of article 41 of the Egyptian Constitution and article 9 of the International Covenant on Civil and Political Rights.

58. Any public official who uses forced labour to perform work for any public body or institution, or for a body or institution the assets of which are regarded as public, or who withholds all or part of the wages of such workers without valid reason, is liable to a penalty of imprisonment with hard labour, or ordinary imprisonment if the offender is not a public official (art. 117 of the Penal Code).

59. Any public official who forces persons to perform work in circumstances other than those in which such is permitted by law, or who uses persons for work other than that for which they have been mobilized by law, is punishable by imprisonment and dismissal and is obliged to pay fair remuneration to the persons unduly required to perform such forced labour (art. 131 of the Penal Code).

60. The penalties prescribed for the offences referred to in paragraphs 58 and 59 above are consistent with the provisions of art. 13 of the Egyptian Constitution, article 8 of the International Covenant on Civil and Political Rights and article 25 of the Forced Labour Convention.

61. Any Government or postal official who conceals, opens or refrains from delivering mail or telegrams, or who facilitates the commission of such acts by others, is punishable by imprisonment or a fine and dismissal (art. 154 of the Penal Code). The penalties prescribed for these acts are consistent with the provisions of article 45 of the Egyptian Constitution, article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights.

62. The acts referred to below are punishable by imprisonment or a fine under the terms of articles 98 (f), 160 and 161 of the Egyptian Penal Code. These penalties are consistent with the provisions of article 46 of the Constitution, article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights:

(a) The exploitation of religion in order to promote or advocate extremist ideologies by word of mouth, in writing or in any other manner with a view to stirring up sedition, disparaging or belittling any divinely-revealed religion or its adherents;

(b) Damage or destruction of premises intended for the celebration of religious observances, or of emblems or other articles venerated by the members of a religious community or group of people;

(c) The use of violence or force to disrupt or interrupt the religious observance or celebrations by any community, or the desecration of graves or cemeteries;

(d) The printing or publication of scriptures that are revered by members of a religious community in such a way as to distort and alter the meaning of the text of those scriptures;

(e) Mimicry of a religious celebration in a public place with the aim of ridiculing it.

63. The use of force or threats to obstruct the right of others to work, their right to employ or refrain from employing any person or their right to participate or refrain from participating in an association, regardless of whether such methods are used against the person concerned, his wife or his children, is punishable by imprisonment or a fine (art. 375 of the Penal Code).

64. The penalties for these acts are consistent with the provisions of articles 13 and 57 of the Egyptian Constitution, articles 20, (2) and 23, (1) of the Universal Declaration of Human Rights and article 6, (1) of the International Covenant on Economic, Social and Cultural Rights.

C. Violations of the principles of human rights which are designated as offences under the terms of special penal legislation

Act No. 396 of 1957, concerning the organization of prisons

65. It is a criminal offence, punishable by imprisonment, for a public official to confine a person in any way deprived of his liberty at a location other than one of the prisons or places specified in the Act (art. 91 bis).

66. This penalty is consistent with the provisions of article 42 of the Egyptian Constitution, article 10 of the International Covenant on Civil and Political Rights and the principles contained in the Code of Conduct for Law Enforcement Officials.

The Juveniles Act No. 31 of 1974

67. When an order has been issued for a juvenile to be placed in the custody of a person or a body, anyone other than the said juvenile's parents, grandparents or spouse who conceals him, encourages him to abscond or helps him to do so is punishable by imprisonment and/or a fine (art. 22 of the Juveniles Act).

68. Anyone who exposes a juvenile to the danger of delinquency or aids and abets in juvenile delinquency is punishable by imprisonment and the penalty for such acts is a term of not less than three months' imprisonment if they are committed by one of the juvenile's ascendants or guardians or by a person responsible for his upbringing or legal custody or if the offence is accompanied by coercion or threats (art. 23 of the Juveniles Act).

69. The penalties for these acts are consistent with the provisions of article 10 of the Egyptian Constitution and the principles embodied in the Declaration of the Rights of the Child.

The Suppression of Prostitution Act No. 10 of 1961

70. Incitement or enticement to engage in prostitution or other indecent acts, or aiding and abetting therein, is punishable by a term of one to three years' imprisonment, together with a fine, and the amount of the fine and the length of the term of imprisonment are increased if the offence involves persons under 21 years of age or if it is committed through the use of coercion or threats (arts. 1 and 2 of the Act).

71. Anyone who incites or helps a person to enter or leave the country, or who employs or accompanies such person, for the purpose of engagement in prostitution or other indecent acts is punishable by a term of one to five years' imprisonment, together with a fine, and the maximum term of imprisonment is increased to seven years if the offence is committed against two or more persons or through the use of coercion or threats (arts. 3 and 5 of the Act).

72. If any of the offences referred to in paragraphs 70 and 71 above are committed against a person under 16 years of age, or if the offender holds a position of responsibility or authority as an ascendant, guardian or tutor, the penalty is a term of three to seven years' imprisonment (art. 4 of the Act).

73. Anyone who exploits the immorality of others or helps a female to engage in prostitution is punishable by imprisonment for a term of six months to three years, which is increased to a term of one to five years if the offence involves the aggravating circumstances referred to in paragraph 72 above (art. 6 of the Act).

74. Anyone who manages, leases or makes available premises to be used for prostitution or other immoral purposes, or who habitually engages in prostitution or other immoral acts, is punishable by imprisonment for a term of three months to three years and/or a fine and closure of the premises (arts. 8, 9 and 10 of the Act).

75. Anyone operating or managing a public establishment or place of entertainment who employs persons engaged in prostitution with a view to facilitating their engagement therein or using them to promote his establishment is liable to a term of up to two years' imprisonment, a fine and closure of the establishment for a period of three months and this penalty is

increased, with permanent closure of the establishment, if the offender is an ascendant or guardian of, or in a position of authority over, the person engaging in prostitution (art. 11).

76. Anyone who knowingly works or normally resides in a house of prostitution is liable to a term of up to one year's imprisonment (art. 13).

77. Any form of public dissemination of an invitation inciting others to engage in prostitution or drawing their attention thereto is punishable by a term of up to three years' imprisonment and/or a fine (art. 14).

78. The Act stipulates that a repeated offender who habitually engages in prostitution after serving a previous sentence therefor must be placed in a special reform institution and such placement may also be ordered in the case of persons who are not repeated offenders. Article 15 of the Act further stipulates that a person convicted of any of the above-mentioned offences must be placed under police surveillance for a period equivalent to the duration of the sentence imposed.

79. From the above, it is evident that all the acts referred to in the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others are designated as criminal offences for which appropriate penalties are prescribed in Egyptian law.

Conclusion

80. This brief review of some of the acts which are designated as criminal offences in the Egyptian Penal Code and in other special penal legislation clearly shows the extent to which this legislation is in conformity with the international instruments concerning human rights and freedoms. It also illustrates the active role which Egyptian penal legislation is playing in ensuring the legal protection of human rights and freedoms by designating any violations or infringements thereof as criminal offences for which appropriate penalties are prescribed.

Part 2: The Egyptian Code of Criminal Procedure and legislation relating to principles of human rights

Introduction

81. In part 1 of this chapter, we have already reviewed the provisions of the Egyptian Penal Code and the extent to which they are consistent with the principles and textual provisions of international instruments concerning human rights and freedoms, since the Code is one of the most important basic legal documents in so far as it defines the acts which are regarded as criminal offences and prescribes the penalties therefor. In this part, we will turn to the Code of Criminal Procedure and the legislation pertaining thereto, which are also among the most important legal documents in the field of human rights and freedoms in so far as this Code regulates the principal procedures through which the personal freedom of individuals can be limited or restricted. In fact, it defines the circumstances in which a person can be

deprived of his freedom through arrest or detention, as well as the circumstances in which persons and homes may be searched. This Code also defines the circumstances in which criminal proceedings can be instituted, the grounds on which they can be terminated, the main procedures for the conduct of criminal trials, the rules of criminal evidence and the criteria for its admissibility, the grounds on which judgements can be challenged or appealed, and the manner of enforcement and consequences of legal penalties.

82. The international instruments concerning human rights and freedoms deal with these matters through the principles contained in articles 8, 9, 10, 11 and 12 of the Universal Declaration of Human Rights and articles 9, 10 and 14 of the International Covenant on Civil and Political Rights, and also in the Standard Minimum Rules for the Treatment of Prisoners. On the basis of the provisions of the above-mentioned instruments, a distinction can be made between three stages, namely human rights and freedoms before, during and after the trial. In the light of this division, we will examine the position adopted in the Code and the related legislation, consisting in Act No. 57 of 1959, concerning cassation procedure, and Act No. 396 of 1957, concerning the regulation of prisons. In addition to the Code of Criminal Procedure, the other legislation pertaining to these matters will be referred to wherever appropriate.

A. The general provisions of the Code of Criminal Procedure concerning principles of human rights

83. None of the provisions of the Code of Criminal Procedure require or permit discrimination among the persons subject thereto in regard to their rights and obligations. This applies to all the parties to criminal proceedings, including the defendant, the plaintiff and the party bearing civil responsibility, as well as the officials responsible for the investigation, the counsels for the prosecution and the defence, the judges and the persons responsible for the enforcement of judgements. This is consistent with the provisions of article 40 of the Egyptian Constitution, article 2 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights.

84. Article 15 of the Code of Criminal Procedure embodies the principle that criminal actions in respect of some offences are not statute-barred. This principle, which is based on article 57 of the Egyptian Constitution, is in conformity with the provisions of some international instruments concerning human rights, as illustrated below:

(a) The use of forced labour for the benefit of a Government or State-owned institution, and the withholding of all or part of the wages of such workers, by a public official or other person are designated as criminal offences in article 117 of the Penal Code.

(b) Torture with a view to the extraction of a confession and the infliction of a punishment more severe than that to which the person concerned has been sentenced are designated as criminal offences in articles 126 and 127 of the Penal Code.

(c) An arrest made by a person unlawfully wearing the uniform of a public official, acting in an unauthorized capacity or presenting falsified documents, is designated as a criminal offence in article 282 of the Penal Code.

(d) Violation of the privacy of citizens by eavesdropping or the employment of any photographic device without the consent of the person concerned and any use or threat to use or divulge the information acquired in this manner without the consent of the person concerned are designated as punishable offences in articles 309 bis and 309 bis (a) of the Penal Code. The above-mentioned provisions contained in article 15 of the Code of Criminal Procedure are consistent with article 1 of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

B. The Code of Criminal P. cedure and principles of human rights at the pre-trial stage

85. Officers of justice have an obligation to receive all communications and complaints transmitted to them concerning offences and must send them immediately to the Department of Public Prosecutions. Any person claiming to have suffered damage as a result of an offence has the right to bring a civil action (Arts. 24 and 26, CCP).

86. No person can be arrested or detained except by order of the authorities vested with legal competence in that respect. Any person arrested or detained must be treated in a manner conducive to the preservation of his human dignity and must not be harmed physically or mentally (Art. 40, CCP).

87. No one may be imprisoned except in penal establishments intended for that purpose and no prison warden may admit any person into such establishments except by written order of the competent authority, nor may such person be detained therein for a period longer than that specified in the said order (Art. 41, CCP).

88. Every prisoner has the right to submit a written or verbal complaint to the prison warden, who must accept such complaints and transmit them immediately to the Department of Public Prosecutions after recording them in the relevant prison register (Art. 43, CCP).

89. Any member of the Department of Public Prosecutions and any president or vice-president of a court of first instance or appeal is entitled to visit the prisons situated within their areas of jursidiction in order to ascertain that no one is being detained illegally. They also have the right to inspect the prison registers, arrest warrants and confinement orders and to contact any prisoners with a view to hearing their complaints (Art. 42, CCP).

90. Anyone who is arrested or held in precautionary detention must be informed immediately of the reasons for his arrest or detention. He has the right to communicate with any person whom he wishes to notify of what has happened and is entitled to avail himself of the services of a lawyer (Art. 139, CCP).

91. In cases of flagrante delicto or cases involving offences punishable by more than three months' imprisonment, criminal investigation officers may arrest a suspect found at the scene of a crime. In such cases, they must immediately take a statement from the arrested suspect. If the latter is unable to establish his innocence, he must be brought before the competent office of public prosecutions within 24 hours. The office of public prosecutions must question the suspect within 24 hours and subsequently order his remand in custody or release (Arts. 34 and 36, CCP).

92. In cases of flagrante delicto involving an offence punishable by more than three months' imprisonment, the criminal investigation officer has a right to search the suspect for articles and papers that may help to establish the truth of the matter (Art. 46, CCP).

93. A detention order issued by the Department of Public Prosecutions is valid only for a period of four days from the date of arrest of the suspect. If the Department wishes to extend a period of precautionary detention, it must submit the case file to the judge of summary jurisdiction, who issues an appropriate order after listening to the statements of the suspect and the Department of Public Prosecutions. The precautionary detention may be extended for one or more successive periods, provided that the total period of detention does not exceed 45 days. If the investigation has not been completed, the period of precautionary detention may be extended by the Misdemeanours Court of Appeal, meeting in chambers, after hearing the statements of the suspect and the Department of Public Prosecutions. The period of detention may be extended for successive periods of 45 days, up to a maximum of six months. Failing such extension, the suspect must be released unless he has been notified, before the expiration of his period of detention, that he is to be referred to the competent court. In all cases, the Department of Public Prosecutions, the judge of summary jurisdiction and the Misdemeanours Court of Appeal may order the release of the suspect, with or without bail, at any time (Arts. 201, 202, 203, 204 and 205, CCP).

94. It is important to note that the Department of Public Prosecutions is a judicial body in the Egyptian legal system and, under the provisions of the Judicial Authority Act No. 46 of 1972, its members cannot be dismissed.

95. It is not permitted to search persons other than the suspect or houses other than the suspect's house, nor is it permitted to seize letters or telegrams, tap telephones or record meetings unless this would help to uncover the truth and solely in cases involving offences punishable by more than three months' imprisonment and only after obtaining a substantiated order issued by a judge of summary jurisdiction and valid for a specified period of time (Art. 206, CCP).

96. A house search is an investigative act that must not be resorted to without a substantiated order issued by an examining magistrate on the basis of a charge brought against a person living therein and who is accused of committing or participating in the commission of an offence or misdemeanour or if evidence is found which indicates that he is in possession of articles relating to the offence (Art. 91, CCP).

97. Except in cases of flagrante delicto or where there is a compelling reason to believe that evidence may be lost, the examining magistrate in criminal cases cannot interrogate a suspect or confront him with other suspects or witnesses until the suspect's lawyer, if he has one, has been invited to be present. Unless otherwise stipulated by the magistrate, the lawyer must be permitted to acquaint himself with the facts of the case on the day preceding the interrogation or confrontation and the accused must under no circumstances be separated from his legal counsel during the examination (Arts. 124 and 125, CCP).

98. The rules referred to in the preceding paragraphs are in accordance with the provisions of articles 41, 42, 44, 45 and 71 of the Constitution, articles 8, 9 and 12 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights.

C. The Code of Criminal Procedure and principles of human rights during the trial

99. Trials must be held in public, unless the court decides to hold some or all of its hearings in camera in the interests of public order or morality (Art. 268, CCP).

100. The accused and the opposing parties must be served with a summons to appear at least one full day before the hearing in the case of infractions, three days in the case of misdemeanours and eight days in the case of felonies, not counting travel time, and the summons must be served on the accused in the manner specified in the Code of Civil Procedure or at his place of residence (Arts. 233, 234 and 274, CCP).

101. The accused and the opposing parties must be granted access to the case file immediately after they have been summoned to appear in court (Art. 236, CCP).

102. Persons accused of offences punishable by imprisonment must appear in person. In cases involving misdemeanours and infractions, they may appoint a representative to present their defence, without prejudice to the court's right to order their appearance in person (Art. 237, CCP).

103. The trial begins with the presentation of the indictment against the accused, after which the court hears statements from witnesses for the prosecution, witnesses for the defence and experts, if any. The accused and the opposing parties have the right to cross-examine witnesses, to recall witnesses for the defence or to call other witnesses for the defence. The court then hears the final pleas of the opposing parties, the accused being the last to speak (Arts. 271, 272, 273, 274, 275 and 293, CCP).

104. Judges have full freedom to deliver judgement in accordance with the conclusions that they have reached. However, they must not base their judgements on evidence that has not been submitted during the hearing. Judgements must be handed down in public, even in cases which are heard in camera (Arts. 302 and 303, CCP).

105. Any statement by the accused or witnesses which, in the court's opinion, has been made under coercion or threat is considered null and void. Ascendants and descendants of the accused, as well as relatives by blood and marriage to the second degree and his spouse, even after the dissolution of the marriage, may decline to testify against him except in cases involving offences committed against, or reported by, any of them (Arts. 286 and 302, CCP).

106. In cases involving felonies, the lawyer must appear with the accused, regardless of whether he was appointed by the examining magistrate, the Department of Public Prosecutions, the President of the Criminal Court or the accused himself. A lawyer who is absent, without a legitimate excuse, and fails to designate a representative is liable to a fine, without prejudice to any disciplinary proceedings (Art. 375, CCP).

107. The lawyer appointed may request the court to assess and specify his fees in its judgement, the said fees being borne by the Public Treasury if the accused is indigent. The lawyer appointed must be accredited to plead before the courts of appeal as well as the courts of first instance (Arts. 376 and 377, CCP).

108. The language of the courts is Arabic. The statements of any opposing parties or witnesses who are not familiar with that language are heard through a sworn interpreter. Interpreters, who are regarded as judicial assistants, must be available in sufficient numbers at the Court of Cassation, the courts of appeal and the courts of first instance. They must hold specialized academic degrees in a foreign language and must swear an oath to perform their duties in an honest and impartial manner before being allowed to work at public hearings (Arts. 19, 135, 156, 157 and 158 of the Judicial Authority Act No. 46 of 1972).

109. The accused has the right to challenge judgements <u>in absentia</u> handed down in cases involving misdemeanours and infractions, which are reviewed by the courts which delivered them, and the fact of challenging a judgement must not be held against the accused (Arts. 398 and 401, CCP).

110. In the tables annexed to this report, in connection with the comments on article 14 of the International Covenant on Civil and Political Rights, reference is made to judgements handed down by the Court of Cassation in this regard.

111. The accused has the right to appeal against judgements handed down in his presence in cases involving misdemeanours. The appeal is heard by the competent division of the court of first instance, such hearings being expedited if the accused is detained (Arts. 402 and 410, CCP).

112. An appeal must not be detrimental to the accused and the court must not impose a severe penalty or annul an acquittal on the basis of an appeal lodged by the Department of Public Prosecutions unless such action is approved unanimously by all the judges hearing the appeal (Art. 417, CCP).

113. Judgements in absentia in cases involving felonies are declared null and void if the accused appears or is arrested; such cases must be reheard by the court (Art. 395, CCP).

114. The accused has the right to appeal to the Court of Cassation against final judgements handed down in cases involving felonies or misdemeanours on the grounds and in the manner specified in Act No. 57 of 1969, concerning procedures for appeal to the Court of Cassation.

115. The accused has the right to request a review of a final judgement handed down in cases involving felonies and misdemeanours on the grounds and in the manner specified by law (Arts. 441 and 442, CCP).

116. The rules and provisions referred to above are in accordance with articles 64, 65, 67, 68, 69 and 70 of the Egyptian Constitution and article 14 of the International Covenant on Civil and Political Rights.

D. The Code of Criminal Procedure and principles of human rights at the post-trial stage (execution of judgement)

117. Criminal proceedings cannot be reinstituted after a final judgement has been handed down therein, nor can they be reheard except on the basis of an appeal that has been lodged in the legally prescribed manner against the said judgement (Arts. 454 and 455, CCP).

118. The legally prescribed penalty for an offence can be imposed only under the terms of a judgement handed down by a competent court (Art. 459, CCP).

119. Judgements are enforceable only after they have become final, unless otherwise stipulated by law (Art. 460, CCP).

120. Custodial sentences must be served in the prisons established for that purpose and on the basis of an order issued by the Department of Public Prosecutions (Art. 478, CCP).

121. A work assignment outside prison may be requested instead of a custodial sentence in cases in which the sentence does not exceed three months' imprisonment (Art. 479, CCP).

122. The total duration of the period of precautionary detention and remand in custody must be deducted from the term of the custodial sentence (Art. 482, CCP).

123. A custodial sentence imposed on a woman during or after the sixth month of her pregnancy may be postponed until two months after her delivery (Art. 485, CCP).

124. A custodial sentence may be postponed if the convicted person is suffering from an illness which is dangerous in itself or which might endanger his life if he were to serve the sentence (Art. 487, CCP).

125. If a man and his spouse are sentenced to a term of not more than one year's imprisonment and they have not been in prison before, the sentence imposed on one of them may be postponed until the other has been released if they are responsible for the care of a young person under 15 years of age (Art. 489, CCP).

126. Prisons are divided into categories in accordance with the type of sentence to be served therein. There are prisons for men sentenced to hard labour (penitentiaries) and prisons for men sentenced to ordinary imprisonment and women sentenced to hard labour (public prisons), which are also used for the confinement of prisoners transferred from penitentiaries on reaching the age of 60, for health reasons, after serving half of their sentence or by virtue of their good conduct, and also for persons sentenced to terms of more than three months' imprisonment. All other custodial sentences are served in the central prisons (Arts. 1, 2, 3 and 4 of the Prisons Regulatory Act).

127. Persons held in precautionary detention are confined in premises separate from those in which prisoners are incarcerated and they have the right to wear their own clothes and to have their own food brought to them (Arts. 14, 15 and 16 of the Prisons Regulatory Act).

128. Prisoners are divided into three categories, each of which is subjected to different treatment and living conditions. Transfers from one category to another are effected in the light of specific criteria and there is also a transitional period, preceding the release of prisoners who have served sentences of more than four years, during which restrictions are gradually lifted and they are granted more privileges (Arts. 13 and 18 of the Prisons Regulatory Act).

129. Prisoners sentenced to hard labour are required to work, in return for pay, except on the weekly day of rest and on public holidays. Persons held in precautionary detention or sentenced to ordinary imprisonment are not required to work unless they so desire (Arts. 21-27 of the Prisons Regulatory Act).

130. Prisoners are provided with educational opportunities and are allowed to study and sit special examinations. A library is also established in every prison and inmates can have newspapers and books sent to them at their own expense (Arts. 28-32 of the Prisons Regulatory Act).

131. Prisoners are given periodic health check-ups and every prison has a resident medical officer. Prisoners are entitled to periodic visits from their friends and relatives, with whom they are also allowed to correspond (Arts. 28-42 of the Prisons Regulatory Act).

132. Prisoners who have been well-behaved may be paroled after serving three quarters of their sentence (Arts. 52-64 of the Prisons Regulatory Act).

133 All the above rules and regulations concerning the serving of sentences, as contained in the Egyptian Code of Criminal Procedure and the Prisons Regulatory Act, are in accordance with the provisions of article 42 of the Egyptian Constitution, the Standard Minimum Rules for the Treatment of

Prisoners, approved by the Economic and Social Council of the United Nations on 31 July 1957 and 13 May 1977, and articles 10 and 14 of the International Covenant on Civil and Political Rights.

E. The Code of Criminal Procedure and safeguards and procedures concerning death sentences

134. A criminal court can impose a death sentence only with the unanimous agreement of all its members (who must also be justices of the High Court of Appeal) and after seeking the opinion of the Mufti of the Republic. The sentence may be appealed by applying to the Court of Cassation for a review (Arts. 381 and 441, CCP).

135. The Department of Public Prosecutions must submit death sentences, handed down in the presence of the accused, to the Court of Cassation for verification of the proper application of the law, even if the convicted person has not lodged an appeal against the sentence (Art. 46 of Act No. 57 of 1959, concerning the procedures for appeal to the Court of Cassation).

136. The case file containing the final sentence of death must be submitted to the President of the Republic, through the Minister of Justice, so that he can exercise his right to issue a pardon or commute the sentence at his discretion (Art. 470, CCP).

137. A death sentence imposed on a pregnant woman is postponed until two months after her delivery (Art. 476, CCP).

138. The above rules and regulations are in accordance with the provisions of article 149 of the Egyptian Constitution, article 6 of the International Covenant on Civil and Political Rights and the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council of the United Nations on 25 May 1984.

Part 3: The Egyptian Juveniles Act and principles of human rights

139. The Egyptian Legislature has promulgated a separate enactment concerning juveniles (Act No. 31 of 1974) which incorporates the special regulations concerning juveniles, as contained in the Penal Code and the Code of Criminal Procedure, in order to combine the regulations pertaining to their criminal responsibility and prosecution in a single enactment with a view to making it easier for the persons supervising juvenile affairs to discharge their duties and fulfil their responsibilities in a careful and effective manner conducive to the achievement of the objectives of the Act. In this connection, the Egyptian Legislature has followed the rules and principles concerning juveniles, as approved by the international community in instruments concerning human rights and freedoms. These principles are contained in articles 6 and 10 of the International Covenant on Civil and Political Rights and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, adopted by the General Assembly of the United Nations on 29 November 1985.

140. In this part, we will provide details of the principles embodied in the above-mentioned Act, together with an indication of the extent to which they are in conformity with those international instruments.

A. Prohibition of distinction or discrimination in the application of the provisions of the Act

141. The articles of the Act make no provision for distinction or discrimination among juveniles on any grounds relating to race, colour, sex, language, religion or other reasons. This is in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

B. Prohibition of the imposition of the death penalty on juveniles

142. Article 15 of the Act stipulates that a juvenile over 15 but under 18 years of age who commits an offence punishable by death or hard labour for life can be sentenced only to a term of imprisonment. In other words, sentence of death or hard labour for life cannot be imposed on juveniles under 18 years of age (calculated in accordance with the Gregorian calendar). This is in accordance with the provisions of article 6 of the International Covenant on Civil and Political Rights.

C. Measures and penalties applicable to juveniles

143. Article 7 of the Act prescribes the following measures and penalties that can be imposed on a juvenile who commits an offence while he is under 15 years of age: a reprimand, delivery into the care of a parent or guardian, enrolment for vocational training, the compulsory fulfilment of specified obligations, probation, placement in a social care institution, or admission to a specialized hospital.

144. Article 15 prescribes the penalties that can be imposed on a juvenile over 15 but under 18 years of age: a term of not less than 10 years' imprisonment for offences punishable by death or hard labour for life, a term of imprisonment for offences punishable by hard labour, or a term of not less than 6 months' detention for offences punishable by a term of imprisonment. In all these cases, the court may order the juvenile to be placed in a social care institution. For all other offences punishable by detention, the court may order the juvenile to be placed in a social care institution or under probation.

D. Juvenile courts and their procedures

145. The Act made provision for the establishment of special juvenile courts consisting of a single judge, assisted by two experienced social workers, at least one of whom must be a woman, whose presence during the trial proceedings is obligatory. These two assessors must report to the court on all aspects of the juvenile's circumstances before the court hands down its judgement. Under the provisions of the Act, appeals against such judgements may be lodged with a special division of the court of first instance, which follows the

procedures applicable to misdemeanours. The trial proceedings can be attended only by the juvenile, witnesses and lawyers and, in cases involving felonies, a lawyer must be appointed if the juvenile does not have one to defend him. Juvenile court judges are competent to exercise supervision and control and to adjudicate in all disputes concerning execution of judgements (Arts. 28, 29, 33, 34 and 40 of the Juveniles Act).

E. Enforcement of sentences imposed on juveniles

146. Financial penalties imposed on juveniles cannot be enforced by means of physical coercion, nor can juveniles be compelled to pay fees or expenses. Custodial sentences imposed on juveniles must be served in special penal institutions in which they are given opportunities for rehabilitation through development and reform projects (Arts. 47, 48 and 49 of the Juveniles Act). The rules and regulations referred to in paragraphs 143-146 above are fully in accordance with the principles embodied in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

Part 4: The Egyptian Emergency Act and principles of human rights

147. States of emergency which are proclaimed in the country are regulated by article 148 of the Egyptian Constitution, which stipulates that a state of emergency can be proclaimed by the President of the Republic but must be submitted to the People's Assembly for ratification within 15 days from the date of its proclamation. The same article further stipulates that a state of emergency can be proclaimed only for a specified period of time, which can be extended solely with the approval of the People's Assembly.

148. In this connection, article 4 of the International Covenant on Civil and Political Rights stipulates that, in time of public emergency which threatens the life of the nation and the existence of which has been officially proclaimed, it is permissible to take measures derogating from the obligations arising from the Covenant. However, such measures must not derogate from the principles set forth in articles 6, 7, 8, 11, 15, 16 and 18, concerning the right to life, safeguards pertaining to the death penalty, the prohibition of torture and of slavery, servitude or imprisonment for civil debt, the legal basis of crime and punishment and recognition of legal personality and of freedom of thought and religious belief.

149. The Egyptian Legislature followed the system of pre-emergency legislation by promulgating Act No. 162 of 1958, as amended by Act No. 37 of 1972, Act No. 164 of 1981 and Act No. 50 of 1982, which contain the provisions and regulations to be applied when a state of emergency has been proclaimed in the country. These legislative instruments define the circumstances in which a state of emergency can be proclaimed, the authority competent to proclaim it, the procedure for its extension, the measures that can be taken while it is in force, the circumstances in which complaints can be lodged against it, the procedures to be followed by the emergency courts and the effects of the termination of the state of emergency. These provisions are explained in greater detail below.

A. Justification of the proclamation of a state of emergency

150. The Act permits the proclamation of a state of emergency in conditions in which public order and security are endangered due to the outbreak of war, the existence of a situation that threatens to lead to such an outbreak, the occurrence of disturbances within the country, general disasters or the spread of an epidemic (Art. 1).

B. The authority competent to proclaim a state of emergency

151. A state of emergency must be proclaimed and terminated by a presidential decree stating the reason for its proclamation and specifying the area in which it will apply, as well as the date of its entry into force and its duration.

152. The decree must be submitted to the People's Assembly for ratification within 15 days. If it is not submitted to, or not approved by, the People's Assembly, the state of emergency is deemed to be terminated (Art. 2 of the Act, as amended by Act No. 37 of 1972).

C. Extension of the state of emergency

153. A state of emergency cannot be extended beyond the period specified in the decree by which it was proclaimed without the approval of the People's Assembly. It is deemed to be terminated unless such approval is granted before the expiration of the said period (Art. 2 of the Act, as amended by Act No. 37 of 1972).

D. Measures that can be taken during a state of emergency

154. When a state of emergency has been legally proclaimed, the President of the Republic is empowered to take appropriate measures to avert the danger threatening the country and maintain security and order. He may impose restrictions on freedom of assembly, movement and residence, order the arrest and search of suspicious persons who pose a threat to security, censor correspondence and the press, determine the working hours at public institutions, issue any work assignments, seize movable and immovable property (without prejudice to the provisions of the Mobilization Act concerning complaints and compensation), withdraw licences for firearms and explosives and evacuate or isolate any areas.

155. The scope of these measures can be expanded only with the approval of the People's Assembly, in accordance with the procedures that must be followed for the proclamation of the state of emergency itself (Art. 3 of the Act).

E. Circumstances in which complaints can be lodged against measures taken during a state of emergency, and the rights of persons who suffer detriment as a result thereof

156. (a) Anyone who is arrested or detained must be informed immediately of the reasons for his arrest or detention and has the right to contact any person whom he may wish to notify of what has happened. He is also entitled to avail himself of the services of a lawyer;

(b) The detainee must be treated in the same way as a person held in precautionary detention;

(c) The detainee, and any other persons concerned, have the right to lodge a complaint with the Higher State Security Court if he is not released within 30 days from the date of issue of the arrest warrant;

(d) The court must hand down a substantiated decision on the complaint within 15 days from the date of its submission, failing which the detainee must be released immediately;

(e) Any person whose complaint has been rejected has the right to submit a new complaint 30 days after the rejection of his previous complaint;

(f) The Minister of the Interior has the right to appeal against a release order issued by the court. Such appeal must be heard, within 15 days of its submission, by another division whose decision is final (Art. 3 bis added to Act No. 60 of 1968, as amended by Act No. 37 of 1972, Act No. 164 of 1981 and Act No. 50 of 1982).

F. The court competent to hear complaints against detention orders

157. The Egyptian Emergency Act makes provision for the formation of State security (emergency) courts which are competent to hear cases involving offences in violation of the provisions of decrees promulgated in connection with a state of emergency, as well as offences under the ordinary law which the President of the Republic decides to place under their jurisdiction. These courts are constituted as follows:

(a) Lower State security courts, established within the area of jurisdiction of each court of first instance and presided over by one of the latter's judges, are competent to hear cases involving offences punishable by imprisonment and/or a fine. The President of the Republic is empowered to appoint two officers as additional members of such courts;

(b) Higher State security courts, established in the area of jurisdiction of each court of appeal and presided over by three of its justices, are competent to hear offences punishable by a criminal penalty, as well as other offences specified by the President of the Republic. Two officers may be appointed as additional members of such courts by order of the President of the Republic;

(c) Actions brought before these courts are instituted by members of the Department of Public Prosecutions, who are vested with the powers of examining magistrates;

(d) These courts follow the procedures laid down in the legislation in force in regard to the hearing and judgement of cases and enforcement of the sentences handed down;

(e) Judgements handed down by State security (emergency) courts are subject to ratification by the President of the Republic and do not become final before such ratification. If the accused is acquitted during a retrial ordered by the President of the Republic, ratification of the verdict is mandatory;

(f) Before judgements are ratified by the President of the Republic, both they and any appeals lodged against them must be examined either by a justice presiding over a court of appeal, or by a solicitor general designated to that end. They must ascertain the correctness of the procedures, examine the appeals and express their opinion, by means of a substantiated memorandum, in each criminal case;

(g) The President of the Republic is empowered to order a stay of court proceedings, to commute a sentence and to cancel or suspend the enforcement of any principal, supplementary or incidental penalty either before or after ratification (Arts. 7, 9, 10, 12, 14 and 16 of the Act).

G. Effects of the termination of a state of emergency

158. Articles 19 and 20 of the Act specify the effects of the termination of a state of emergency on cases that are being heard by State security (emergency) courts. They stipulate that the courts must continue to hear those cases, whereas cases that have not been referred to them are heard by the ordinary courts competent to do so. The regulations concerning ratification of judgements continue to apply to judgements handed down before the termination of the state of emergency and also to judgements handed down in cases which continue to be heard by the State security (emergency) courts in accordance with the above-mentioned provision.

159. It is evident, therefore, that the principles and provisions laid down in the Egyptian Emergency Act are in conformity with article 4 of the International Covenant on Civil and Political Rights, since there is nothing in these principles and provisions which implies a violation or infringement of that article or of any of the provisions from which, under the terms thereof, no derogation is permissible during legally proclaimed states of emergency.

160. The general comments on article 4 of the International Covenant on Civil and Political Rights in annex II to this report contain a judgement handed down by the Supreme Constitutional Court concerning the State security (emergency) courts.

Part 5: The Egyptian Judicial Authority Act and principles of human rights

161. The Egyptian Constitution stipulates that the judicial authority is independent and is exercised by courts of various kinds and levels which pass judgement in accordance with the law. Judges are independent and, in their administration of justice, are subject to no power other than that of the law. No authority has the right to interfere in legal proceedings or

judicial affairs. The Act specifies the conditions and procedures for the appointment and transfer of members of the judiciary, who are not subject to dismissal although their disciplinary accountability is prescribed by law (Arts. 165, 166, 167 and 168).

162. The international instruments concerning principles of human rights include the Basic Principles on the Independence of the Judiciary, endorsed by United Nations General Assembly resolutions 40/132 of 29 November 1985 and 40/146 13 December 1985. Those Principles relate to judicial immunity, conditions of appointment, qualifications, term of office, promotion, discipline and removal.

163. The Judicial Authority Act No. 46 of 1972, as amended by Acts No. 17 of 1974, No. 96 of 1976 and No. 25 of 1984, embodies these fundamental concepts recognized in the Egyptian Constitution and the Basic Principles on the Independence of the Judiciary, as illustrated by the following:

(a) The competence of the courts to adjudicate in all disputes and offences, unless otherwise stipulated by special enactment, is defined by law (Arts. 14 and 15 of the Act);

(b) Judges cannot be transferred, reassigned or seconded except in the circumstances and the manner prescribed by law (Art. 52 of the Act);

(c) Members of the judiciary and the Department of Public Prosecutions, with the exception of assistant prosecutors, are not subject to dismissal (Art. 67 of the Act);

(d) The general assemblies formed at each court and consisting of all its members are responsible for allocating and scheduling work, determining the number of divisions and sessions of the court and delegating its members to work in the criminal courts (Art. 30 of the Act);

(e) The Higher Council of the Judiciary is legally competent to hear all matters relating to the appointment, promotion, transfer, assignment and secondment of members of the judiciary and the Department of Public Prosecutions, as well as other matters concerning them, in the manner prescribed by law. The Council is presided over by the president of the Court of Cassation and includes among its members the president of the Cairo Court of Appeal, the Attorney General, the two most senior vice-presidents of the Court of Cassation and the two most senior presidents of the other courts of appeal (Arts. 77 <u>bis</u> (1) and 77 <u>bis</u> (2) of the Act);

(f) Only the civil divisions of the Court of Cassation are competent to hear applications submitted by members of the judiciary and the Department of Public Prosecutions for the annulment of final administrative decisions concerning their affairs. Those divisions are also vested with sole competence to hear applications for compensation and disputes concerning salaries, pensions and allowances (Art. 83 of the Act);

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(g) The disciplinary control of judges is exercised by a special board consisting of the president of the Court of Cassation, the three most senior presidents of the courts of appeal and the three most senior chief justices of the Court of Cassation. The meetings of the board are held in camera and its decisions concerning removal from office require ratification by the President of the Republic, which is published in the Official Gazette (Arts. 98, 106, 108 and 110 of the Act);

(h) Except in cases of flagrante delicto, a judge cannot be arrested or held in precautionary detention unless permission has been obtained from a special committee. In cases of flagrante delicto, the matter must be referred within 24 hours to the said committee, which is vested with sole competence to order the continued detention or release of the judge. No investigative action may be taken in criminal matters without the approval of the said committee. Custodial sentences imposed on judges must be served in special institutions (Art. 96 of the Act).

164. The principles concerning the independence of the judiciary, as contained in the above-mentioned Judicial Authority Act, are in conformity with the provisions of the Egyptian Constitution and the principles adopted by the General Assembly of the United Nations in this regard.

Conclusion

165. Following this review of the position of the Egyptian Legislature in regard to the principles of human rights embodied in international instruments and in some of the important legislative enactments to which reference has been made in the preceding parts of this chapter, in chapter III we will discuss Egypt's contribution to international human rights instruments.

III. EGYPT'S CONTRIBUTION TO INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

166. Throughout its long history and by virtue of its geographical location at the junction of three continents, Egypt has been an active member of the international community and has been affected by events taking place in all parts of the world. It has also done its utmost to contribute to the consolidation of the values of truth and justice and to the advancement, development, freedom and self-determination of all peoples.

167. Egypt's time-honoured cultural heritage and historical experience over the ages have constituted the powerful driving force behind its active endeavours in this field, as a natural result of which Egypt has been among the most active members of the international community diligently seeking to promote the principles of human rights and ensure that they are enjoyed by all the peoples of the world.

168. In keeping with its civilized view of the future of mankind as a whole and its firm belief in the noble aim of safeguarding human dignity, rights and freedoms, Egypt has promptly acceded to most of the international declarations and instruments in this regard. It has also played an effective role in the adoption of the African Charter on Human and Peoples' Rights and in the current preparations for the adoption of the Charter of Human Rights of the Arab and Islamic States.

169. The international human rights instruments to which Egypt has acceded are:

(a) The International Covenant on Economic, Social and Cultural Rights (United Nations, New York, 16 December 1966);

(b) The International Covenant on Civil and Political Rights (United Nations, New York, 16 December 1966);

(c) The International Convention on the Elimination of All Forms of Racial Discrimination (United Nations, New York, 21 December 1965);

(d) The International Convention on the Suppression and Punishment of the Crime of Apartheid (United Nations, New York, 30 November 1973);

(e) The International Convention against Apartheid in Sports (United Nations, 10 December 1985);

(f) The Convention on the Elimination of All Forms of Discrimination against Women (United Nations, 18 December 1979);

(g) The Convention on the Prevention and Punishment of the Crime of Genocide (United Nations, New York, 9 December 1948);

(h) The Slavery Convention (Geneva, 25 September 1926);

(i) The Protocol amending the Slavery Convention signed at Geneva on 25 September 1926) (United Nations, New York, 23 October 1953);

(j) The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Geneva, 7 September 1956);

(k) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (United Nations, New York, 2 December 1949);

(l) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations, New York, 10 December 1984);

(m) The Convention relating to the Status of Refugees (Geneva, 28 July 1951);

(n) The Protocol relating to the Status of Refugees (New York, 31 January 1967);

(o) The Convention on the Political Rights of Women (United Nations, New York, 20 December 1952);

(p) The Forced Labour Convention (Geneva, 22 June 1930);

(q) The Convention on the Rights of the Child (New York, 20 November 1989).

170. Following its accession to those international instruments and completion of the requisite constitutional procedures, those instruments became part of the law in force in the country since article 151 of the Egyptian Constitution stipulates that conventions concluded by the President of the Republic and transmitted to the People's Assembly together with an appropriate explanation have the effect of law after their ratification and publication in Arabic in the Official Gazette in accordance with the prescribed procedures.

171. The above clearly illustrates Egypt's active and effective contribution to international instruments concerning human rights and freedoms. It also highlights Egypt's eager desire to secure legal protection for these rights through the codification of the relevant principles in explicit international instruments in order to ensure that they are respected and developed.

172. Within the context of Egypt's commitment to the international human rights instruments, we wish to emphasize Egypt's political commitment to the right of all peoples to self-determination, as stipulated in those instruments. In international forums, Egypt is stressing the need to respect that right and, in keeping with its historical responsibility, is making every endeavour, within the framework of international law, to secure recognition of the legitimate and inalienable rights of the Palestinian people so that, like all other peoples of the world, it can exercise its right to self-determination in accordance with international law.

173. All States have a direct and undeniable interest in the achievement of a just, comprehensive and lasting settlement of the Arab-Israeli conflict in a manner consistent with the legitimate and inalienable rights of all peoples, including the Palestinian people and its right to self-determination, with a view to establishing peace and safeguarding the security of all States, including the State of Israel, through a mutual recognition of rights on a basis of equality, justice and respect for sovereignty, independence and territorial integrity in accordance with the principles of contemporary international law.

CONCLUSION

174. Through this brief review of the position of the Egyptian Constitution and some Egyptian legislation in regard to principles of human rights and freedoms and the extent to which the Constitution and the law of Egypt are consistent with the provisions contained in the relevant international instruments, we can affirm the following:

(a) All principles of human rights and freedoms are accorded high status in Egypt's Constitution and legislation;

(b) Respect for these principles and rights is ensured by the legal protection that they enjoy, as illustrated by the judicial control of the constitutionality of legislation through the Supreme Constitutional Court and the independence of the judiciary which is competent to hear complaints concerning violations of these rights;

(c) Egypt's contribution to international human rights instruments, through its accession thereto, accords these instruments the same status as the legislation in force in the country and places all national authorities and bodies under an obligation to comply with their provisions;

(d) The important role that the Supreme Constitutional Court is playing by upholding the constitutionally recognized human rights and freedoms and ensuring that the legislation promulgated is consistent with those provisions reflects the deep concern that Egypt is showing for human rights and freedoms and confirms its desire to lay the foundations for the future in such a way as to safeguard and protect these rights.

175. Egypt hopes that this second periodic report which it is submitting to the Human Rights Committee of the United Nations will give a clear idea of its constitutional and legislative endeavours in the field of human rights and freedoms. Egypt also hopes that the inevitable interaction among the countries of the world will lead to closer relations and greater mutual understanding in such a way as to promote principles of human rights and freedoms so that they can achieve the standards set in the international instruments under the auspices of which the distinguished Committee is meeting.

ANNEXES

Annex I

LIST OF THE LEGISLATIVE ACTS, DECREES, REGULATIONS AND JUDGEMENTS REFERRED TO IN ANNEX II

A. The Constitution, as last amended

B. Legislative acts

1. Act No. 10 of 1914, concerning assembly
2. Act No. 25 of 1920, concerning some matters of personal status
3. Act No. 14 of 1923, concerning public meetings
4. Act No. 20 of 1936, concerning publications
5. Act No. 58 of 1937, concerning penalties, as last amended
6. Act No. 131 of 1948, concerning the Civil Code
7. Act No. 150 of 1950, concerning the Code of Criminal Procedure, as last amended
8. Act No. 118 of 1952, concerning guardianship of persons
9. Act No. 119 of 1952, concerning guardianship of property
10. Act No. 354 of 1954, concerning protection of copyright
11. Act No. 430 of 1955, concerning censorship of literary works
12. Act No. 73 of 1956, concerning exercise of political rights
13. Act No. 396 of 1956, concerning the regulation of prisons
14. Act No. 162 of 1958, concerning the Emergency Act, as last amended
15. Act No. 57 of 1959, concerning procedures for appeal and cassation
16. Act No. 97 of 1959, concerning passports
17. Act No. 89 of 1960, concerning the residence of foreigners
18. Act No. 260 of 1960, concerning civil status
19. Act No. 182 of 1961, concerning the law on narcotics
20. Act No. 38 of 1972, concerning the People's Assembly
21. Act No. 46 of 1972, concerning judicial authority
22. Act No. 47 of 1972, concerning the Council of State
23. Act No. 31 of 1974, concerning juveniles
24. Act No. 26 of 1975, concerning Egyptian nationality
25. Act No. 35 of 1976, concerning trade unions
26. Act No. 40 of 1977, concerning political parties
27. Act No. 33 of 1978, concerning protection of the internal front and social harmony
28. Act No. 43 of 1979, concerning local government
29. Act No. 48 of 1979, concerning the Supreme Constitutional Court
30. Act No. 95 of 1980, concerning the protection of values
31. Act No. 120 of 1980, concerning the Consultative Council
32. Act No. 148 of 1980, concerning the powers of the press
33. Act No. 137 of 1981, concerning the labour law
34. Act No. 111 of 1983, concerning migration.

B. Presidential Decrees

1. Decree No. 536 of 1981, approving Egypt's accession to the International Covenant on Civil and Political Rights.

C. Regulations

1. The Prison Regulations, promulgated by order of the Minister of the Interior.

2. The regulations concerning officials authorized to solemnize marriages, promulgated by order of the Minister of Justice.

D. Ministerial decisions

1. Decision No. 864 of 1974, issued by the Minister of the Interior, abolishing the requirement for Egyptians to obtain an exit visa.

2. Decision No. 675 of 1983, issued by the Minister of the Interior, concerning the circumstances in which travel can be prohibited.

E. Court judgements

1. Judgements of the Supreme Constitutional Court published in the Official Gazette.*

2. Judgements of the Court of Cassation:

(a) Appeal No. 7,039, judicial year 55, hearing of 5 March 1986

(b) Appeal No. 59, judicial year 60, hearing of 2 January 1991

3. Judgements of the Higher Administrative Court:

(a) Appeal No. 1,007, judicial year 32, hearing of 26 January 1991, concerning freedom of expression (art. 19 of the International Covenant on Civil and Political Rights)

(b) Appeal No. 1,327, judicial year 36, hearing of 9 March 1991, concerning the right to work

(c) Appeal No. 1,145, judicial year 33, hearing of 29 December 1990, concerning the right to form trade unions (art. 22 of the Covenant)

(d) Appeal Nos. 1,294 and 1,587, judicial year 36, hearing of 26 January 1991, concerning the right to vote and stand as a candidate in elections

(e) Appeal No. 401, judicial year 34, hearing of 27 July 1991, concerning compensation for arbitrary detention.

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* Note: Numbers and dates of judgements are of the Supreme Constitutional Court to which reference is made in the tables followed by the relevant article of the International Covenant on Civil and Political Rights.

Annex II

TABLE COMPARING THE ARTICLES OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS WITH THE EGYPTIAN CONSTITUTION AND LEGISLATION

Articles of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 2 1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant. 3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;	Article 40 All citizens are equal before the law and in regard to their public rights and duties, without distinction as to sex, origin, language, religion, or belief. Article 57 Any encroachment on the personal freedom or privacy of citizens or on the other rights and public freedoms guaranteed by the Constitution and the law shall constitute an offence, and criminal or civil proceedings in connection therewith shall not be subject to any statute of limitations. The State guarantees fair compensation for any person who is the victim of such an offence. Article 64 The rule of law is the basis of government in the State. Article 65 The State is subject to the law. The independence and immunity of the judiciary are fundamental safeguards for the protection of rights and freedoms. Article 68 The right of all persons to engage in litigation shall be guaranteed and safeguarded and every citizen shall be entitled to resort to his natural judge. The State undertakes to ensure that litigants have access to judicial bodies and that cases are adjudicated rapidly. No act or administrative decision can be legally declared immune to judicial control.	General comments 1. Arts. 2 and 3 of the Penal Code stipulate that the provisions of the Code apply to any person who commits, in Egyptian territory, any of the offences specified therein. They also stipulate that its provisions may be extended to offences committed abroad, by reason of the nature of the offence or the nationality of the offender, on the conditions laid down in the Act. In this regard, the Act makes no distinction on grounds of sex, origin, language, religion or belief. In fact, no Egyptian legislation makes provision for any discrimination of this type. 2. Presidential Decree No. 536 of 1981, approving Egypt's accession to the International Covenant on Civil and Political Rights, was published in the Official Gazette, No. 15 of 15 April 1982, as a result of which the Covenant has had legal effect in the country, in accordance with art. 151 of the Constitution, since 14 April 1982. A. The Penal Code (Act No. 58 of 1937) Arts. 117, 126, 127, 129, 280, 282, 309 bis and 309 bis (a) of the Code designate as punishable offences all acts of forced labour or torture of accused or convicted persons by public officials; the use of force in their official capacity in a manner detrimental to human dignity or conducive to physical pain; unjustified or unlawful arrest; and encroachments on the privacy of citizens. The offences specified in the latter two articles were added in Act No. 37 of 1972, which was promulgated after the Egyptian Constitution of 1971 and after Egypt's accession to the Covenant.

Annex II (continued)

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
(c) To ensure that the competent authorities shall enforce such remedies when granted.	Article 151 (a) The President of the Republic shall conclu'e treaties and submit them to the People's Assembly together with an appropriate explanation. They shall have the force of law after their conclusion, ratification and publication in accordance with the prescribed procedures. Article 165 The judicial authority shall be independent. It shall be exercised by courts of various kinds and levels which shall pass judgement in accordance with the law. Article 166 Judges shall be independent. In their administration of justice, they shall be subject to no power other than that of the law. No authority shall have the right to interfere in legal proceedings or judicial affairs. Article 172 The Council of State shall be an independent judicial body with the task of adjudicating in administrative disputes and disciplinary proceedings. Its other functions shall be prescribed by law. Article 174 The Higher Constitutional Court shall be an independent judicial body based in the city of Cairo in the Arab Republic of Egypt.	B. The Code of Criminal Procedure (Act No. 150 of 1950) 1. Art. 15, para. 2, of the Code stipulates that criminal actions in respect of some specified offences are not statute-barred. (This paragraph was added to the Code by Act No. 37 of 1972). 2. Art. 259 stipulates that civil actions resulting from some specified offences are not statute-barred. (This principle was added by Act No. 37 of 1972). 3. Art. 253 stipulates that a civil action for damages can be brought against the accused, against his representative if the accused lacks legal capacity, or against the persons bearing civil liability for the accused. C. The Supreme Constitutional Court Act No. 48 of 1979 1. Art. 1 stipulates that the Supreme Constitutional Court is an independent and autonomous judicial body. 2. Art. 2 stipulates that the members of the Court are not subject to dismissal and cannot be transferred to other posts without their consent. 3. Arts. 25, 26 and 27 stipulate that the Court has sole competence to rule on the constitutionality of legislation and regulations, to settle jurisdictional disputes and conflicting judgements and to interpret legislative texts. It may declare unconstitutional any legislative text or regulation submitted to it in connection with a dispute.

Annex II (continued)

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 2 (continued)	Article 175 The Supreme Constitutional Court is vested with sole competence to rule on the constitutionality of legislation and regulations, and to interpret legislative texts, in the legally specified manner. The law shall also define the Court's other functions and regulate the procedures that it must observe. Article 177 The members of the Supreme Constitutional Court cannot be removed from office, although the Court may call its members to account in the legally specified manner. Article 178 The decisions of the Supreme Constitutional Court concerning constitutional proceedings and the interpretation of legislative texts must be published in the Official Gazette. The law shall also define the implications and effects of a ruling under the terms of which a legislative text is declared unconstitutional.	4. Art. 49 stipulates that the rulings and interpretational decisions of the Court in constitutional proceedings are binding on all persons, including the State authorities, and must be published in the Official Gazette, free of charge, within 15 days from the date on which they are handed down. Any text or regulation which is declared unconstitutional must no longer be applied from the day following the date of publication. D. The Judicial Authority Act No. 46 of 1972 Art. 67 of the Act stipulates that members of the judiciary and the Department of Public Prosecutions, with the exception of assistant prosecutors, are not subject to dismissal. E. The Council of State Act No. 47 of 1972 Art. 91 of the Act stipulates that members of the Council of State holding the rank of counsellor or above are not subject to dismissal and enjoy the same safeguards as those accorded to members of the judiciary. Judicial applications 1. The Higher Administrative Court attached to the Council of State has annulled a number of administrative decisions on the ground that they were incompatible with the human rights recognized in the Constitution and the International Covenant on Civil and Political Rights which, under the provisions of the Constitution, has legal effect in the country. 2. In numerous cases, the Higher Administrative Court has awarded compensation to persons who had been subjected to arbitrary detention. (The reference numbers of these judgements are given in the explanatory notes attached to the table).

Annex II (continued)

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 2 (continued)		Note: Conviction of offences involving violation of the privacy of citizens, which are designated as criminal offences in arts. 309 bis and 309 bis (a), entail forfeiture of the right to belong to political parties or to exercise political rights, in accordance with the provisions of art. 5 of Act. No. 33 of 1978 concerning protection of the internal front and social harmony.

Annex II (continued)

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 3 The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.	Article 11 The State undertakes to reconcile the duties of women towards their families with their work in society and to ensure their equality with men in political, social, cultural and economic aspects of life, without prejudice to the provisions of the Islamic Shari'a. Article 64 The rule of law is the basis of government in the State. Article 65 The State is subject to the law. The independence and immunity of the judiciary are fundamental safeguards for the protection of rights and freedoms.	General comments Egyptian legislation contains no provisions which detract from the civil or political rights of women. On the contrary, the law protects and safeguards such rights in a manner consistent with the nature of women. A. The Penal Code (Act No. 58 of 1937) The Code designates as criminal offences a number of acts constituting violations against women, such as abduction by force or deception, sexual assault and the causing of miscarriages. (Arts. 260, 267 and 290 of the Penal Code). B. The Code of Criminal Procedure (Act No. 150 of 1950) The Code of Criminal Procedure contains provisions concerning women, such as postponement of the execution of death sentences until two months after their delivery (art. 476) and the stipulation that women can be searched only by women (art. 246). The Prison Regulations also contain special provisions, such as the stipulation that female prisoners must be detained in separate institutions which men can enter only for official purposes and accompanied by female prison officers. C. The Labour Act No. 137 of 1981 1. Art. 151 of the Act stipulates that all the provisions governing the employment of male workers also apply to female workers, without any discrimination between them when they are engaged in the same type of work.

Annex II (continued)

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 3 (continued)		2. Art. 153 of the Act prohibits the employment of women for heavy work or work that would be detrimental to their health or morality. 3. The Act grants women various privileges consistent with their nature, such as maternity leave with pay and leave without pay so that they can look after their children. Their daily working hours are also reduced for a period of one and a half years after childbirth so that they can breast-feed their children. (Arts. 154, 155 and 156). 4. Any violation of these provisions or their implementing regulations constitutes an offence punishable by a fine (art. 174).

Annex II (continued)

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 4 1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. 2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision. 3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.	Article 148 States of emergency are proclaimed by the President of the Republic in the manner prescribed by law. Such proclamations must be submitted to the People's Assembly, for ratification, within 15 days. If the People's Assembly has been dissolved, the matter must be referred to the new Assembly at its first meeting. In all cases, a state of emergency can be proclaimed only for a specified period of time, beyond which it can be extended only with the approval of the People's Assembly. Article 71 Any person who is arrested or detained shall be informed immediately of the reasons for his arrest or detention. He shall have the right to communicate with any person whom he wishes to advise of what has happened or from whom he may wish to seek assistance in the manner prescribed by law. He must be promptly notified of the charges brought against him and he or any third party may appeal in court against the measure taken to restrict his personal liberty. Legal provision shall be made for this right of appeal in such a way as to ensure that a judicial decision is taken thereon within a specified period, failing which the person arrested or detained must be released.	The Emergency Act No. 162 of 1958 1. Art. 1 defines the circumstances in which a state of emergency can be proclaimed, namely circumstances in which public order and security are endangered due to the outbreak of a war, the existence of a situation that threatens to lead to such an outbreak, the occurrence of disturbances within the country, general disasters or the spread of an epidemic. 2. Art. 2 stipulates that a state of emergency must be proclaimed by a presidential decree stating the reason for its proclamation and specifying the area in which it will apply, as well as the date of its entry into force and its duration. The decree must be submitted to the People's Assembly, for ratification, within 15 days. If it is not submitted to, or not approved by, the People's Assembly, the state of emergency is deemed to be terminated. A state of emergency cannot be extended beyond the period specified in the decree by which it was proclaimed without the prior approval of the People's Assembly. (This article was amended by Act No. 37 of 1972 to conform with the provisions of the Egyptian Constitution promulgated in 1971). 3. Art. 3 defines the measures that can be taken when a state of emergency has been proclaimed, namely the imposition of restrictions on freedom of assembly, movement, residence or transit in particular places, the arrest and search of suspicious persons who pose a threat to security, censorship of correspondence and the press, determination of working hours, issue of work assignments, evacuation and isolation of certain areas, withdrawal of firearms licences and seizure of movable and immovable property, without prejudice to the right to lodge a complaint and apply for compensation.

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 4 (continued)		The scope of these measures can be expanded only in accordance with the procedures that must be followed for the proclamation of the state of emergency itself. (This article was amended by Act No. 37 of 1972 to conform with the provisions of the Egyptian Constitution promulgated in 1971). 4. Art. 3 bis defines the circumstances in which complaints can be lodged against measures taken during a state of emergency, as well as the rights of persons who suffer detriment as a result thereof. (a) Any person who is arrested or detained must be informed immediately of the reasons for this measure and has the right to contact any person whom he may wish to notify of what has happened. He is also entitled to avail himself of the services of a lawyer. (b) The detainee must be treated in the same way as a person held in precautionary detention. (c) The detainee, and any other persons concerned, have the right to lodge a complaint with the Higher State Security Court if he is not released within 30 days from the date of issue of the arrest warrant. (d) The court must hand down a substantiated decision on the complaint within 15 days from the date of its submission, failing which the detainee must be released immediately. (e) Any person whose complaint has been rejected has the right to submit a new complaint 30 days after the rejection of his previous complaint.

Annex II (continued)

Article of the International Covenant	Corresponding articles of the Egyptian Constitution	Corresponding articles of other Egyptian legislation, with comments
Article 4 (continued)		(f) The Minister of the Interior has the right to appeal against a release order issued by the court. Such appeal must be heard, within 15 days from its submission, by another division whose decision is final. This article was amended by Act No. 37 of 1972, promulgated after the proclamation of the Egyptian Constitution and after Egypt's accession to the Covenant. Note: The Constitutional Court has ruled that the Higher State Security (Emergency) Court, which is vested with sole competence to hear complaints against arrest and detention orders, has become the natural judge in such disputes and that the court's competence to hear such complaints does not render arrest and detention warrants immune to judicial control and, therefore, does not entail any violation of the provisions of art. 68 of the Constitution. (Constitutional case No. 55, judicial year 5, hearing of 16 June 1984).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 5 1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant. 2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to the law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.	**Article 64** The rule of law is the basis of government in the State. **Article 65** The State is subject to the law. The independence and immunity of the judiciary are fundamental safeguards for the protection of rights and freedoms. **Article 151 (a)** The President of the Republic shall conclude treaties and submit them to the People's Assembly together with an appropriate explanation. They shall have the force of law after their conclusion, ratification and publication in accordance with the prescribed procedures. **Article 175** The Supreme Constitutional Court is vested with sole competence to rule on the constitutionality of legislation and regulations, and to interpret legislative texts, in the legally specified manner. The law shall also define the Court's other functions and regulate the procedures that it must observe. **Article 177** The members of the Supreme Constitutional Court cannot be removed from office, although the Court may call its members to account in the legally specified manner.	**Judicial applications** The Higher Administrative Court attached to the Council of State has handed down numerous judgements annulling administrative decisions that violated the human rights recognized in the International Covenant on Civil and Political Rights, which was promulgated in Presidential Decree No. 536 of 1981 and is in force as part of the country's legislation. The Supreme Constitutional Court has ruled on the unconstitutionality of the legislative texts under which acts or decisions were granted immunity from complaint or appeal on the ground that such texts violated art. 68 of the Constitution. (Cf. The judgement handed down in constitutional case No. 92, judicial year 4, hearing of 1 December 1983). The Supreme Constitutional Court has ruled on the unconstitutionality of the legislative texts permitting police surveillance without a court order on the ground that such texts violated Art. 66 of the Constitution. (Cf. The judgement handed down in constitutional case No. 39, judicial year 3, hearing of 15 May 1982). The Supreme Constitutional Court has ruled on the unconstitutionality of art. 5, para. (a), of Act No. 33 of 1978 concerning protection of the internal front and social harmony, which prohibited membership of political parties or engagement in political activity by persons who had been convicted in connection with events that took place prior to the date of entry into force of the Act under which they were prohibited, on the ground that such a prohibition violated arts. 66 and 187 of the Constitution. (Cf. constitutional case No. 49, judicial year 6, hearing of 4 April 1987).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 5 (continued)	Article 178 The decisions of the Supreme Constitutional Court concerning constitutional proceedings and the interpretation of legislative texts must be published in the Official Gazette. The law shall also define the implications and effects of a ruling under the terms of which a legislative text is declared unconstitutional.	The Supreme Constitutional Court has ruled on the unconstitutionality of the legislative texts entailing termination of the membership of appointed members of trade unions, before the expiration of their terms of office, by a body other than the electorate consisting in the general assembly of the union, on the ground that this violated art. 56 of the Constitution. (Constitutional case No. 47, judicial year 3, hearing of 11 June 1983). The Supreme Constitutional Court has ruled on the unconstitutionality of exceptional treatment in regard to enrolment for higher education, under which certain categories could be enrolled in place of others with a greater entitlement under the objective conditions in force, on the ground that this violated arts. 8 and 40 of the Constitution. (Constitutional case No. 106, judicial year 6, hearing of 29 June 1985). The Supreme Constitutional Court has ruled on the unconstitutionality of art. 4 and art. 5, para. (a), of Act No. 33 of 1978 concerning protection of the internal front and social harmony, under which certain categories of citizens could be deprived of their right to vote or stand as candidates in elections or to exercise political rights and activities, on the ground that this violated art. 62 of the Constitution. (Constitutional case No. 56, judicial year 6, hearing of 21 June 1986, and constitutional case No. 49, judicial year 6, hearing of 4 April 1987). The Supreme Constitutional Court has ruled on the unconstitutionality of the legislative texts which discriminated among owners of real estate by granting privileges to some of them in the light of their relationship with their tenants, on the ground that this violated art. 40 of the Constitution. (Constitutional case No. 31, judicial year 7, hearing of 29 April 1989).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 5 (continued)		The Supreme Constitutional Court has ruled on the unconstitutionality of the legislative texts permitting the administrative sequestration of property, on the ground that this violated art. 36 of the Constitution. (Cf. The judgement handed down in constitutional case No. 20, judicial year 1, hearing of 3 January 1981). The Supreme Constitutional Court has ruled on the unconstitutionality of the legislative provisions under which the assets and property of persons subjected to sequestration under the terms of the Emergency Act devolved on the State. It also ruled on the unconstitutionality of the provision which placed an upper limit on the amounts that could revert to the above-mentioned persons once the situation arising from the sequestration had been resolved (Cf. The judgement handed down in constitutional case No. 5, judicial year 1, hearing of 16 May 1981). The Supreme Constitutional Court has ruled on the unconstitutionality of art. 4, para. 7, of Act No. 40 of 1977 concerning political parties, on the ground that absolute and permanent denial of a particular group's right to form political parties was prejudicial to their freedom to express their opinions and therefore constituted a violation of arts. 5 and 47 of the Constitution. (Cf. The judgement handed down in constitutional case No. 44, judicial year 7, hearing of 7 May 1988).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 6 1. Every human being has the inherent right to life. this right shall be protected by law. No one shall be arbitrarily deprived of his life. 2. In countries which have not abolished the death penalty sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court. 3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide. 4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.	Article 149 The President of the Republic has the right to grant a pardon or commute a penalty. General amnesties, however, can be granted only by legislative enactment.	General comments A. Offences punishable by death in the Egyptian Penal Code The offences punishable by death are of a grave and serious nature either by reason of their consequences or the identity of the offender and must be countered by the imposition of this penalty. However, this penalty is not mandatory and, depending on the concomitant circumstances, the court can always commute it to hard labour for life or for a specified period of time, in accordance with art. 17 of the Penal Code. Non-military offences of this type include: 1. Some offences prejudicial to the external or internal security of the State, as listed in chapters I and II of volume II of the Penal Code. 2. The offence of murder of the first or second degree. 3. The offences of torture, arson, the use of explosives and the endangering of public transport if such offences result in death (arts. 102 bis (c), 126, 167, 168, 257 and 286). 4. Offences involving the abduction of females, if accompanied by the offence of sexual assault (art. 290). 5. Offences involving perjury, if they lead to the execution of a person (arts. 294 and 295). 6. Offences connected with the cultivation, production, procurement and traffic in narcotics, enforced addiction, provision of premises for that purpose or attacks on law-enforcement officials if such attacks result in death (the Egyptian Narcotics Act No. 182 of 1960).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women. 6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.		B. The death penalty in the Egyptian Code of criminal procedure and other special legislation 1. Felonies, including offences punishable by death, are heard by the Criminal Courts, consisting of justices of the Court of Appeal and presided over by the President of the Court of Appeal, who are among the highest ranking members of the judiciary in the Courts of Appeal (art. 366 CCP). 2. A death sentence can be imposed only by unanimous agreement and after seeking the opinion of the Mufti of the Republic and the sentence may be appealed by applying to the Court of Cassation for a review (art. 381 CCP). 3. The Department of Public Prosecutions must submit death sentences, handed down in the presence of the accused, to the Court of Cassation for verification of the proper application of the law, even if the convicted person has not lodged an appeal with the Court of Cassation against the sentence (art. 46 of Act No. 57 of 1959, concerning the procedures for appeal to the Court of Cassation. 4. The case file containing the final sentence of death must be submitted to the President of the Republic, through the Minister of Justice, so that he can exercise his right to issue a pardon or commute the sentence at his discretion (art. 470 CCP). 5. A death sentence imposed on a pregnant woman is postponed until after two months after her delivery (art. 476 CCP). 6. Sentence of death cannot be imposed on persons under 18 years of age (art. 15 of the Juveniles Act No. 31 of 1974).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 7 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.	Article 42 Any person who is arrested or imprisoned or whose freedom is restricted must be treated in a manner conducive to the preservation of his human dignity. No physical or mental harm shall be inflicted on him, nor shall he be detained or imprisoned in places other than those which are subject to the legal provisions governing prisons. Any statement which is proved to have been made by a citizen under the influence of threat of anything of the above-mentioned nature shall be considered null and void. Article 43 No medical or scientific experiment shall be carried out on any person without his free consent	A. The Penal Code (Act No. 58 of 1937) The following acts are designated as criminal offences in the Penal Code: 1. Extortion of a confession from an accused person through torture ordered or inflicted by a public official (art. 126). 2. Imposition on a convicted person, by a public official, of a punishment more severe than that to which the said person has been legally sentenced, or a punishment to which he has not been sentenced (art. 127). 3. The use, by a public official acting in his capacity as such, of violence incompatible with human dignity or likely to cause physical pain (art. 129). (Art. 127 was amended by Act No. 37 of 1972, which increased the penalty to a term of imprisonment). B. The Code of Criminal Procedure (Act No. 150 of 1950). 1. Art. 40 stipulates that no person can be arrested or detained except by order of the authorities vested with legal competence in that respect. Any person arrested or detained must be treated in a manner conducive to the preservation of his human dignity and must not be harmed physically or mentally. (This article was amended by Act No. 37 of 1972, which added the last sentence after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 7 (continued)		2. Art. 15, para. 2, stipulates that criminal actions in respect of the offences referred to in paras. 1 and 2 thereof are not statute-barred. (This paragraph was added under the terms of Act No. 37 of 1972 after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant). 3. Art. 302, para. 2, stipulates that any statement by the accused or witnesses which is proved to have been made under coercion or threat is considered null and void. (This paragraph was added under the terms of Act No. 37 of 1972 after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant). Note The conducting of medical or scientific experiments without consent is regarded as a deliberate infliction of harm which, depending on the nature and consequences of the act, constitutes an offence punishable under the Penal Code.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 8 1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. 2. No one shall be held in servitude. 3. (a) No one shall be required to perform forced or compulsory labour; (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court; (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include: (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention; (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors; (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;	**Article 40** All citizens are equal before the law and in regard to their public rights and duties, without discrimination on grounds of sex, origin, language, religion or belief. **Article 13** Work is a right, a duty and an honour and is guaranteed by the State. Workers who excel in their occupations are held in high esteem by the State and society. It is not permissible to impose compulsory work on citizens except as prescribed by law for the discharge of a public service in return for fair remuneration.	A. The Civil Code (Act No. 131 of 1948) 1. Art. 48 stipulates that no person may renounce his legal capacity, nor is it permissible to derogate from any of the principles pertaining thereto. 2. Art. 49 stipulates that no one has the right to renounce his personal liberty. B. The Egyptian Penal Code (Act No. 58 of 1937) 1. Art. 117 of the Penal Code stipulates that it is a criminal offence for a public official to use forced labour to perform work for any public body or institution, or for a body or institution which is regarded as public, or to withhold the wages of such workers without valid reason. This also applies if the offender is not a public official. (It is noteworthy that this offence is not subject to a statute of limitations, as stipulated in art. 15 of the Code of Criminal Procedure) 2. Art. 131 of the Penal Code stipulates that it is a criminal offence for a public official to force persons to perform work in circumstances other than those in which such is permitted by law or to use persons for work other than that for which they have been mobilized by law. 3. Art. 375 stipulates that it is a criminal offence to use force, threats, intimidation or illicit means to obstruct or attempt to obstruct any of the following rights:

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 8 (continued) (iv) Any work or service which forms part of normal civil obligations.		(a) The right of others to work. (b) The right of others to employ or refrain from employing any person. (c) The right of others to participate or refrain from participating in an association or associations. The provisions of this article apply even if such methods are used against the spouse or children of the person concerned.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 9 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement. 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.	Article 41 Individual freedom is a natural and inviolable right that shall be protected. Except in cases of flagrante delicto, no one shall be arrested, searched, detained or subjected to any restriction of freedom or movement unless, in the interests of an investigation or the maintenance of public security, such is required under the terms of an order issued by the competent judge or the Department of Public Prosecutions in accordance with the provisions of the law. The duration of precautionary detention shall be prescribed by law. Article 71 Any person who is arrested or detained shall be informed immediately of the reasons for his arrest or detention. He shall have the right to communicate with any person whom he wishes to advise of what has happened or from whom he may wish to seek assistance in the manner prescribed by by law. He must be promptly notified of the charges brought against him and he or any third party may appeal in court against the measure taken to restrict his personal freedom. Legal provision shall be made for this right of appeal in such a way as to ensure that a judicial decision is taken thereon within a specified period, failing which the person arrested or detained must be released. Article 57 Any encroachment on the personal freedom or privacy of citizens or on the other rights and public freedoms guaranteed by the Constitution and the law shall constitute an offence and criminal or civil proceedings in connection therewith shall not be subject to any statute of limitations. The State guarantees fair compensation to any person who is a victim of such an offence.	A. The Egyptian Penal Code 1. Art. 280 stipulates that it is a criminal offence to arrest or detain any person without an order from the competent authorities or in circumstances other than those in which such is permitted by law. 2. Art. 282 increases the penalty prescribed in Art. 280 in the following circumstances: (a) If the arrest is made by a person unlawfully wearing the uniform of a public official, acting in an unauthorized capacity or presenting a falsified warrant; (b) If the arrest is accompanied by physical torture or a threat to kill the arrested person. B. The Code of Criminal Procedure 1. Art. 15, para. 2, stipulates that criminal actions in respect of specified offences are not statute-barred. (This paragraph was added under the terms of Act. No. 37 of 1972 after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant). 2. Art. 40 stipulates that no person can be arrested or detained except by order of the authorities vested with legal competence in that respect. Any person arrested or detained must be treated in a manner conducive to the preservation of his human dignity and must not be harmed physically or mentally. (This article was amended by Act No. 37 of 1972, which added the last sentence after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 9 (continued)	Article 72 Judgements are handed down and executed in the name of the people. Any refusal to execute, or any obstruction of the execution of, such judgements on the part of competent public officials constitutes an offence punishable by law. In such a case, the successful plaintiff in the case concerned has the right to institute criminal proceedings directly before the competent court.	3. Art. 139 stipulates that anyone who is arrested or held in precautionary detention must be informed immediately of the reasons for his arrest or detention. He also has the right to communicate with any person whom he wishes to notify of what has happened and is entitled to avail himself of the services of a lawyer. (As amended by Act. No. 37 of 1972, which added the requirement concerning immediate information and the right to communicate with others, after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant. 4. In cases of flagrante delicto or cases involving offences punishable by more than three months' imprisonment, criminal investigation officers may arrest a suspect found at the scene of a crime (art. 34). In such cases, they must immediately take a statement from the arrested suspect and, if the latter is unable to establish his innocence, he must be brought, within 24 hours, before the competent office of public prosecutions, which must order his remand in custody or release.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 9 (continued)		5. Arts. 134, 142, 143, 201, 202 and 203 stipulate that a precautionary detention order can be issued only if the offence constitutes a felony or misdemeanour punishable by a term of more than three months' imprisonment. Such an order issued by an examining magistrate is valid for a period of 15 days, renewable up to a total of 45 days. A detention order issued by the Department of Public Prosecutions is valid for four days from the date on which the suspect is arrested or brought before the Department. If the Department of Public Prosecutions wishes to extend the period of precautionary detention, it must apply, before the expiration of the said period, to a judge of summary jurisdiction, who issues an appropriate order after listening to the statements of the suspect and the Department of Public Prosecutions. The judge may extend the precautionary detention up to a total period of 45 days. If the investigation has not been completed, the precautionary detention may be extended for a further period by application to the Misdemeanours Court of Appeal, meeting in chambers, which is empowered to extend the period of detention up to a maximum of six months. If the charge involves a felony, the period of detention may be subsequently extended by the competent court.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 9 (continued))		6. Arts. 144, 146 and 204 stipulate that the examining magistrate or the Misdemeanours Court of Appeal, meeting in chambers, may order a provisional release, with or without bail, provided that the accused undertakes to appear whenever summoned and not to try to evade the sentence that might be imposed on him. The Department of Public Prosecutions may also release the accused at any time, with or without bail.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 10 1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. 2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as convicted persons; (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status	Article 42 Any person who is arrested or imprisoned or whose freedom is restricted must be treated in a manner conducive to the preservation of his human dignity. No physical or mental harm shall be inflicted on him, nor shall he be detained or imprisoned in places other than those which are subject to the legal provisions governing prisons. Any statement which is proved to have been made by a citizen under the influence or threat of anything of the above-mentioned nature shall be considered null and void.	A. The Code of Criminal Procedure (Act No. 150 of 1950) Art. 40, para. 2, stipulates that any person who is arrested or detained must be treated in a manner conducive to the preservation of his human dignity and must not be harmed physically or mentally. (This para. was added by Act. No. 37 of 1972 after the promulgation of the Constitution and Egypt's accession to the Covenant). B. The Prisons Regulatory Act. No. 396 of 1956 1. Arts. 14, 15 and 16 stipulate that persons held in precautionary detention must be confined in premises separate from those in which prisoners are incarcerated. They may be permitted to live in furnished rooms, against payment, and have the right to wear their own clothes and to have their own food brought to them from outside the prison. 2. Prisoners are divided into three categories, each of which is subjected to different treatment and living conditions. Transfers from one category to another are effected in the light of specific criteria and there is also a transitional period, preceding the release of prisoners who have served sentences of more than four years, during which restrictions are gradually lifted and they are granted more privileges. (Arts. 13 and 18 of the Prisons Regulatory Act)

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 10 (continued)		3. Prisoners sentenced to hard labour are required to work, in return for pay, except on the weekly day of rest and on public holidays. Persons held in precautionary detention or sentenced to ordinary imprisonment are not required to work unless they so desire. (Arts. 21-27 of the Prisons Regulatory Act). 4. Prisoners are provided with educational opportunities and are allowed to study and sit special examinations. A library is also established in every prison and inmates can have newspapers and books sent to them at their own expense. (Arts. 28-32 of the Prisons Regulatory Act). 5. Prisoners are given periodic health check-ups and every prison has a resident medical officer. Prisoners are entitled to periodic visits from their friends and relatives, with whom they are also allowed to correspond. (Arts. 28-42 of the Prisons Regulatory Act). 6. Prisoners who have been well-behaved may be paroled after serving three-quarters of their sentence. (Arts. 52-64 of the Prisons Regulatory Act). 7. Art. 64 stipulates that the Ministry of Social Affairs and Labour must be informed, at least two months in advance, of the names of prisoners who are to be released so that it can make arrangements for their social rehabilitation, prepare them for the external environment and organize the requisite medical examinations and other welfare-related measures.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 11	Article 66	
No one shall be imprisoned on the ground of inability to fulfil a contractual obligation	Penalties are personal. There is no crime or punishment except as defined by law and penalties can be inflicted only on the basis of a court judgement and solely for acts committed subsequent to the entry into force of the legislation under the terms of which they are prohibited.	Egyptian penal legislation makes no provision for imprisonment on the ground of inability to fulfil a contractual obligation.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 12 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own. 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by the law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. 4. No one shall be arbitrarily deprived of the right to enter his own country.	Article 50 No citizen shall be prohibited from residing, or forced to reside, in a specific place, except as provided by law. Article 51 No citizen shall be deported from the country or prevented from returning thereto. Article 52 Citizens have the right to emigrate temporarily or permanently. This right, as well as the procedures and conditions for emigration and return to the country, shall be regulated by law. Article 68 The right of all persons to engage in litigation shall be guaranteed and safeguarded and every citizen shall be entitled to resort to his natural judge. The State undertakes to ensure that litigants have access to judicial bodies and that cases are adjudicated rapidly. No act or administrative decision shall be legally declared immune to judicial control.	A. With the exception of the circumstances provided for in the Emergency Act No. 162 of 1958, to which reference has been made in the comments on art. 4 of the Covenant, residence can be restricted only under the terms of an order placing a person under police surveillance, which is a criminal penalty imposed by a court order. B. Art. 48 bis of the Narcotics Act No. 182 of 1960 prescribes restricted residence as a penalty that can be imposed, by a court order, on suspects in narcotics offences. Note: The Supreme Constitutional Court has ruled that police surveillance is a penalty that can be imposed only under the terms of a court judgement. It has also ruled that the legislative provisions permitting such surveillance are unconstitutional on the ground that they violate art. 66 of the Constitution, which stipulates that there is no crime or punishment except as defined by law and that penalties can be inflicted only on the basis of a court judgement. C. The Passport Act No. 97 of 1959 1. Art. 1 gives every Egyptian the right to obtain a passport to travel from and return to the country. 2. The Minister of the Interior may, for significant reasons that he deems justifiable, refuse to issue or renew a passport, or withdraw it after it has been delivered (art. 11).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 12 (continued)	Article 172 The Council of State shall be an independent judical body with the task of adjudicating in administrative disputes and disciplinary proceedings. Its other functions shall be prescribed by law.	3. Decision No. 864 of 1974, promulgated by the Minister of the Interior, abolished the requirement for Egyptians or foreigners to obtain an exit visa, while stipulating that travel by government and public-sector employees was subject solely to the approval of their employers and that travel by persons covered by the provisions of the Military Service Act was subject to the approval of the competent authority. 4. Decision No. 975 of 1983, promulgated by the Ministry of the Interior, stipulated that such prohibition of travel must be based on an application from the authorities specified in the Decision, namely the courts, the Department of Public Prosecutions, the Socialist Prosecutor, the Department of Public Security and the general and military intelligence authorities. The Decision empowered an administrative committee to hear appeals against such prohibition. D. The Emigration Act No. 111 of 1983 Art. 1 stipulates that Egyptians have the right to emigrate permanently or temporarily, as individuals or in groups, for any purpose, while retaining their Egyptian nationality. E. The Council of State Act No. 47 of 1972 Art. 10 stipulates that the Council of State, in its capacity as an independent judicial body, is competent to hear appeals against final decisions taken by administrative authorities. The final paragraph of the same article stipulates that refusal or failure of the administrative authorities to take action constitutes an administrative decision under the terms of the Council of State Act No. 47 of 1972 and its amending regulations.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 13 An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his explusion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.	Article 53 The State shall grant the right of political asylum to any foreigner who has been persecuted for his defence of the interests of peoples, human rights, peace or justice. The extradition of political refugees is prohibited. Article 68 The right of all persons to engage in litigation shall be guaranteed and safeguarded and every citizen shall be entitled to resort to his natural judge. The State undertakes to ensure that litigants have access to judicial bodies and that cases are adjudicated rapidly. No act or administrative decision can be legally declared immune to judicial control. Article 172 The Council of State shall be an independent judicial body with the task of adjudicating in administrative disputes and disciplinary proceedings. Its other functions shall be prescribed by law.	Act No. 89 of 1960, concerning the residence of foreigners Arts. 25-31 of the Act stipulate that it is not permissible to deport a foreigner who is residing in the country in a private capacity unless his presence poses a threat to the internal or external security or integrity of the State or to the national economy or public health or morality, in which case the said foreigner may be deported after the matter has been submitted to the Committee formed under the terms of the Act. The deportation order must be announced and implemented in accordance with the prescribed procedures. The Council of State Act No. 47 of 1972 Art. 10 stipulates that the Council of State, in its capacity as an independent judicial body, is competent to hear appeals against final decisions taken by administrative authorities. The final paragraph of this article stipulates that any refusal or failure by the administrative authorities to take action required of them in accordance with the laws and regulations constitutes an administrative decision.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 14 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit of law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children. 2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. 3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;	Article 40 All citizens are equal before the law and in regard to their public rights and duties, without distinction as to sex, origin, language, religion or belief. Article 65 The State is subject to the law. The independence and immunity of the judiciary are fundamental safeguards for the protection of rights and freedoms. Article 67 The accused is presumed innocent until proved guilty at a judicial hearing in which his right to defend himself is guaranteed. Every person accused of a felony must have a lawyer to defend him. Article 69 The right of defence, in person or by proxy, is guaranteed and legal provision shall be made to ensure that persons lacking financial means are able to resort to the courts in defence of their rights. Article 169 Court hearings shall be public unless the court decides to hold them in camera out of regard for public order or morality. In all cases, the judgement must be handed down in public.	A. The Code of Criminal Procedure (Act No. 150 of 1950) 1. Anyone who is arrested or held in precautionary detention must be informed immediately of the reasons for his arrest or detention. He has the right to communicate with any person whom he wishes to notify of what has happened and is entitled to avail himself of the services of a lawyer. (Art. 139, CCP.) 2. In cases of flagrante delicto or cases involving offences punishable by more than three months' imprisonment, criminal investigation officers may arrest a suspect found at the scene of a crime. In such cases, they must immediately take a statement from the arrested suspect. If the latter is unable to establish his innocence, he must be brought before the competent office of public prosecutions within 24 hours. The office of public prosecutions must question the suspect within 24 hours and subsequently order his demand in custody or release. (Arts. 34, 35, 36, CCP.) Note: Articles 34 and 35 were amended by Act No 37 of 1972. The original text permitted arrest if there was sufficient evidence against the suspect, whereas the amendment restricted such arrest to cases of flagrante delicto. 3. In cases of flagrante delicto involving an offence punishable by more than three months' imprisonment, the criminal investigation officer has a right to search the suspect for articles and papers that may help to establish the truth of the matter. (Art. 46, CCP.) 4. A detention order issued by the Department of Public Prosecutions is valid only for a period of four days from the date of arrest of the suspect. If the Department wishes to extend a period of precautionary detention, it must submit the case file to the judge of summary jurisdiction, who issues an appropriate order after listening to the statements of the suspect and the Department of Public Prosecutions. The precautionary detention may be extended for one or more successive periods, provided that the total period of detention does not exceed 45 days. If the investigation has not been completed, the period of precautionary detention may be extended by the Misdemeanours Court of Appeal, meeting in chambers, after hearing the statements of the suspect and the Department of Public Prosecutions. The period of detention may be extended for successive period of 45 days, up to a maximum of 6 months.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) Not to be compelled to testify against himself or to confess guilt. 4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. 5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.	Article 68 The right of all persons to engage in litigation shall be guaranteed and safeguarded and every citizen shall be entitled to resort to his natural judge. The State undertakes to ensure that litigants have access to judicial bodies and that cases are adjudicated rapidly. No act or administrative decision can be legally declared immune to judicial control. Article 70 Criminal proceedings can be instituted only by order of a judicial authority, except where otherwise provided by law. Article 165 The judicial authority shall be independent. It shall be exercised by courts of various kinds and levels which shall pass judgement in accordance with the law. Article 166 Judges shall be independent. In their administration of justice, they shall be subject to no power other than that of the law. No authority shall have the right to interfere in legal proceedings or judicial affairs. Article 168 Judges are not subject to dismissal. Their disciplinary accountability shall be regulated by law.	Failing such extension, the suspect must be released unless he has been notified, before the expiration of his period of detention, that he is to be referred to the competent court. In all cases, the Department of Public Prosecutions, the judge of summary jurisdiction and the Misdemeanours Court of Appeal may order the release of the suspect, with or without bail, at any time. (Arts. 201, 202, 203, 204 and 205, CCP.) 5. Trials must be held in public, unless the court decides to hold some or all of its hearings in camera in the interests of public order or morality. (Art. 268, CCP.) 6. The accused and the opposing parties must be served with a summons to appear at least one full day before the hearing in the case of infractions, three days in the case of misdemeanours and eight days in the case of felonies, not counting travel time, and the summons must be served on the accused in the manner specified in the Code of Civil Procedure or at his place of residence. (Arts. 233,234 and 274,CCP.) 7. The accused and the opposing parties must be granted access to the case file immediately after they have been summoned to appear in court (Art. 236, CCP.) 8. Persons accused of offences punishable by imprisonment must appear in person. In cases involving misdemeanours and infractions, they may appoint a representative to present their defence, without prejudice to the court's right to order their appearance in person. (Art. 237, CCP.) 9. The trial begins with the presentation of the indictment against the accused, after which the court hears statements from witnesses for the prosecution, witnesses for the defence and experts, if any. The accused and the opposing parties have the right to cross-examine witnesses, to recall witnesses for the defence or to call other witnesses for the defence. The court then hears the final pleas of the opposing parties, the accused being the last to speak. (Arts. 271, 272, 273, 274, 275 and 293, CCP.)

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him. 7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.		10. Judges have full freedom to deliver judgement in accordance with the conclusions that they have reached. However, they must not base their judgements on evidence that has not been submitted during the hearing. Judgements must be handed down in public, even in cases which are heard in camera. (Arts. 302 and 303, CCP.) 11. Any statement by the accused or witnesses which, in the court's opinion, has been made under coercion or threat is considered null and void. Ascendants and descendants of the accused, as well as relatives by blood and marriage to the second degree and his spouse, even after the dissolution of the marriage, may decline to testify against him except in cases involving offences committed against, or reported by, any of them. (Arts. 286 and 302, CCP.) 12. In cases involving felonies, the lawyer must appear with the accused, regardless of whether he was appointed by the examining magistrate, the Department of Public Prosecutions, the President of the Criminal Court or the accused himself. A lawyer who is absent, without a legitimate excuse, and fails to designate a representative is liable to a fine, without prejudice to any disciplinary proceedings. (Art. 375, CCP.) Note: The Court of Cassation has ruled that the purpose of article 67 of the Constitution, which makes the services of a lawyer mandatory for every person accused of a felony, is to ensure real as opposed to purely formal defence of the accused. A mere plea by the defence counsel for clemency or acquittal on the ground of the youthful age of the accused is regarded as a formal defence which vitiates the trial proceedings. 13. The lawyer appointed may request the court to assess and specify his fees in its judgement, the said fees being borne by the Public Treasury if the accused is indigent. The lawyer appointed must be accredited to plead before the courts of appeal as well as the courts of first instance. (Arts. 376 and 377, CCP.)

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 14 (continued)		14. The accused has the right to challenge judgements in absentia handed down in cases involving misdemeanours and infractions, which are reviewed by the courts which delivered them, and the fact of challenging a judgement must not be held against the accused. (Arts. 398 and 401, CCP.) 15. The accused has the right to appeal against judgements handed down in his presence in cases involving misdemeanours. The appeal is heard by the competent division of the court of first instance, such hearings being expedited if the accused is detained. (Arts. 402 and 410, CCP.) 16. An appeal must not be detrimental to the accused and the court must not impose a heavier penalty or annul an acquittal on the basis of an appeal lodged by the Department of Public Prosecutions unless such action is approved unanimously by all the judges hearing the appeal (Art. 417, CCP.) 17. Judgements in absentia in cases involving felonies are declared null and void if the accused appears or is arrested and such cases must be reheard by the court. (Art. 395, CCP.) 18. The accused has the right of appeal to the Court of Cassation against final judgements handed down in cases involving felonies or misdemeanours on the grounds and in the manner specified in Act No. 57 of 1959, concerning procedures for appeal to the Court of Cassation.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 14 (continued)		19. The accused has the right to request a review of a final judgement handed down in cases involving felonies and misdemeanors on the grounds and in the manner specific by law. (Arts. 441 and 442, CCP). 20. A criminal action is terminated when the defendant has been acquitted or convicted under the terms of a final judgement. The action cannot be reheard except in the legally prescribed manner, nor can it be reinstituted except on the basis of new evidence or new circumstances. (Arts. 454, 455 and 456, CCP). C. The judicial Authority Act No. 46 of 1972 1. The courts consist of the Court of Cassation, the courts of appeal, the courts of first instance and the courts of summary jurisdiction, each being competent to hear matters brought before it in accordance with the law. (Art. 1). 2. The competence of the courts to adjudicate in all disputes and offences, unless otherwise stipulated by special enactment, is defined by law. The rules governing the competence of the courts are laid down in the Code of Civil Procedure and the Code of Criminal Procedure. (Arts. 1 and 15 of the Act). 3. Judges cannot be transferred, reassigned or seconded except in the circumstances and the manner prescribed by law. (Art. 52 of the Act).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 14 (continued)		5. Court hearings are public, unless the court decides to hold them in camera out of regard for public order or morality. In all cases, the judgement must be handed down in public. (Art. 18 of the Act). 6. The general assemblies formed at each court and consisting of all its members are responsible for allocating and scheduling work, determining the number of divisions and sessions of the court and delegating its members to work in the criminal courts. (Art. 30 of the Act). 7. The Higher Council of the Judiciary is legally competent to hear all matters relating to the appointment, promotion, transfer, assignment and secondment of members of the judiciary and the Department of Public Prosecutions, as well as other matters concerning them, in the manner prescribed by law. The Council is presided over by the president of the Court of Cassation and includes among its members the president of the Cairo Court of Appeal, the Attorney General, the two most senior vice-presidents of the Court of Cassation and the two most senior presidents of the other courts of appeal. (Arts. 77 bis (1) and 77 bis (2) of the Act.) 8. Only the civil divisions of the Court of Cassation are competent to hear applications submitted by members of the judiciary and the Department of Public Prosecutions for the annulment of final administrative decisions concerning their affairs. Those divisions are also vested with sole competence to hear applications for compensation and disputes concerning salaries, pensions and allowances. (Art. 83 of the Act.)

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 14 (continued)		9. The disciplinary control of judges is exercised by a special board consisting of the president of the Court of Cassation, the three most senior presidents of the courts of appeal and the three most senior chief justices of the Court of Cassation. The meetings of the board are held in camera and its decisions concerning removal from office require ratification by the President of the Republic, which is published in the Official Gazette. (Arts. 98, 106, 108 and 110 of the Act.) 10. Except in cases of flagrante delicto, a judge cannot be arrested or held in precautionary detention unless permission has been obtained from a special committee. In cases of flagrante delicto, the matter must be referred within 24 hours to the said committee, which is vested with sole competence to order the continued detention or release of the judge. No investigative action may be taken in criminal matters without the approval of the said committee. Custodial sentences imposed on judges must be served in special institutions. (Art. 96 of the Act.)

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 14 (continued)		11. The language of the courts is Arabic. The statements of any opposing parties or witnesses who are not familiar with that language are heard through a sworn interpreter. Interpreters, who are regarded as judicial assistants, must be available in sufficient numbers at the Court of Cassation, the courts of appeal and the courts of first instance. They must hold specialized academic degrees in a foreign language and must swear an oath to perform their duties in an honest and impartial manner before being allowed to work at public hearings. (Arts. 19, 135, 156, 157 and 158 of the Judicial Authority Act No. 46 of 1972). D. The Juveniles Act No. 31 of 1974 1. Art. 7 of the Act prescribes the following measures and penalties that can be imposed on a juvenile who commits an offence while he is under 15 years of age: a reprimand, delivery into the care of a parent or guardian, enrolment for vocational training, the compulsory fulfilment of specified obligations, probation, placement in a social care institution, or admission to a specialized hospital. 2. Art. 15 prescribes the penalties that can be imposed on a juvenile over 15 but under 18 years of age: a term of imprisonment for offences punishable by death or hard labour or a term of detention for offences punishable by a term of imprisonment. In all these cases, the court may order the juvenile to be placed in a social care institution.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Eygptian legislation, with comments
Article 14 (continued)		3. The Act made provision for the establishment of special juvenile courts consisting of a single judge, assisted by two experienced social workers, at least one of whom must be a woman. Appeals against the judgements of these courts may be lodged with a special division of the court of first instance. The trial proceedings can be attended only by the juvenile, witnesses and lawyers. (Arts. 28, 29, 33, 34 and 40). 4. Custodial sentences imposed on juveniles must be served in special penal institutions and financial penalties imposed on juveniles cannot be enforced by means of physical coercion. (Arts. 47, 48 and 49). E. The Penal Code (Act No. 58 of 1937) 1. Any form of intercession with the judiciary in favour of one of the opposing parties constitutes an offence punishable by imprisonment and/or a fine. (Art. 120). 2. Any judge who, as a result of such intercession, refrains from adjudicating or hands down a judgement which is found to be unjust is liable to a penalty of imprisonment, a fine and removal from office. (Art. 121). 3. It is an offence, punishable by a fine and removal from office, for a judge to refrain from adjudicating. No excuse, such as the lack or ambiguity of legal provisions, is admissible in this regard. (Art. 122).

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 15 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby. 2. Nothing in this article shall prejudice the trial or punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.	Article 66 Penalties are personal, there is no crime or punishment except as defined by law and penalties can be inflicted only on the basis of a court judgement and solely for acts committed subsequent to the entry into force of the legislation pertaining thereto. Article 70 Criminal proceedings can be instituted only by order of a judicial authority, except where otherwise provided by law. Article 187 Legal provisions apply only to acts committed subsequent to their entry into force and they have no retroactive effect. In non-criminal matters, however, legal provision to the contrary may be made with the approval of the majority of members of the People's Assembly. Article 188 Legislation shall be published in the Official Gazette within two weeks from the date of its promulgation. It shall enter into force one month after the day following the date of its publication, unless another date of entry into force is stipulated.	The Penal Code (Act No. 58 of 1937) Art. 5 stipulates that offences must be punished in accordance with the legislation in force at the time of their commission. However, if legislation that is more favourable to the accused is promulgated before final judgement has been handed down, it is applied instead of the earlier legislation. If legislation abolishing punishment for an act is promulgated after a final judgement has been handed down in connection therewith, execution of the judgement is halted and its criminal effects are annulled. If an act is committed in violation of legislation which prohibits its commission during a specified period of time, the expiration of the said period does not preclude the continuation of the proceedings or the execution of the judgement.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 16 Everyone shall have the right to recognition everywhere as a person before the law.	Article 40 All citizens are equal before the law and in regard to their public rights and duties, without distinction as to sex, origin, language, religion, or belief.	The Civil Code (Act No. 131 of 1948) 1. Art. 29 stipulates that legal personality begins at birth and ends at death. A foetus also has legally recognized rights. 2. Art. 38 stipulates that every person must have a first name and a family name. 3. Art. 51 stipulates that names are protected by law. It is prohibited to use or assume the name of another person in an unlawful or unjustifiable manner and anyone who suffers harm as a result thereof has the right to claim compensation and to demand the cessation of such illicit use of his name.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 17 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.	Article 41 Individual freedom is a natural and inviolable right that shall be protected. Except in cases of flagrante delicto, no one shall be arrested, searched, detained or subjected to any restriction of freedom or movement unless, in the interests of an investigation or the maintenance of public security, such is required under the terms of an order issued by the competent judge or the Department of Public Prosecutions in accordance with the provisions of the law. The duration of precautionary detention shall be prescribed by law. Article 44 Homes are inviolable and must not be entered or searched without a substantiated warrant issued by a magistrate in accordance with the provisions of the law. Article 45 The private life of citizens is inviolable and protected by law. Postal and telegraphic communications, telephone conversations and other means of communication are inviolable. Their confidentiality is guaranteed and they must not be seized, inspected or censored without a substantiated order issued by a magistrate for a specified period of time in accordance with the provisions of the law. Article 57 Any encroachment on the personal freedom or privacy of citizens or on the other rights and public freedoms guaranteed by the Constitution and the law shall constitute an offence and criminal or civil proceedings in connection therewith shall not be subject to any statute of limitations. The State guarantees fair compensation to any person who is a victim of such an offence.	A. The Penal Code (Act No. 58 of 1937) 1. Art. 309 bis stipulates that it is a criminal offence to violate the privacy of a citizen by eavesdropping or employing any device to photograph, record or transmit an event or conversation occurring in a private place or by telephone. This also applies to public servants acting in their official capacity. 2. Art. 309 bis (a) stipulates that it is a criminal offence to use, disseminate or facilitate the dissemination, in public or otherwise, of a recording or document obtained in any of the above-mentioned ways. The penalty is increased if the offence is accompanied by a threat to divulge information so acquired with a view to inducing a person to carry out, or abstain from, any act. This also applies to public officials acting in their official capacity. (These two articles were added under the terms of Act No. 37 of 1972 after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant. Conviction of any of these offences entails forfeiture of the right of membership of political parties, as stipulated in art. 5 of Act No. 33 of 1978, concerning the protection of values).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 17 (continued)		General comments 3. It is a criminal offence for a government official to conceal, open or fail to deliver mail or telegrams or to facilitate such acts by others. (Art. 154). 4. It is a criminal offence to publicly defame a person in any of the ways specified in the Code by making any accusations which, if true, would necessitate his punishment or bring him into disrepute with his fellow citizens. (Art. 303). 5. It is a criminal offence to publicly abuse any person in a manner which in any way detracts from his honour or reputation in the circumstances defined by law. (Art. 306). 6. Art. 307 prescribes a heavier penalty if the offences of abuse or defamation are committed through the press or publications. 7. Art. 308 prescribes a heavier penalty if the abuse or defamation detracts from the moral standing of individuals or the reputation of families. 8. Art. 308 bis stipulates that acts of abuse or defamation by telephone are criminal offences punishable by the penalties prescribed in arts. 303, 306 and 308.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 17 (continued)		General comments B. The Code of Criminal Procedure (Act. No. 150 of 1950) Art. 15, para. 2, of the Code stipulates that criminal actions in respect of some specified offences are not statute-barred. (This paragraph was added by Act No. 37 of 1972 after the promulgation of the Egyptian Constitution and Egypt's accession to the Covenant). Note: The Constitutional Court has ruled that the text of art. 47 of the Code of Criminal Procedure is unconstitutional on the ground that it violates art. 44 of the Constitution, under which homes can be entered and searched only on the basis of a substantiated court order issued in accordance with the provisions of the law. (Constitutional case No. 5, judicial year 4, hearing of 2 June 1984).

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 18 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary for public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.	Article 47 Freedom of opinion is guaranteed. Every person is entitled to express and disseminate his opinion orally, in writing, graphically or through any other medium of expression, within the limits of the law. Self-criticism and constructive criticism guarantee sound national development. Article 46 The State guarantees freedom of belief and freedom of religious observance. Article 19 Religious education is a basic component of public education curricula.	(The Penal Code (Act No. 58 of 1937) 1. Art. 160 designates the following acts as criminal offences: (a) the use of violence or threats to disrupt or interrupt the religious observances or celebrations of any community; (b) the destruction, damage or desecration of premises intended for the celebration of religious rites, or of emblems or other articles venerated by the members of a religious community or group of people; (c) the violation or desecration of graves or cemeteries. The penalties prescribed in this article were increased by Act. No. 29 of 1982 after Egypt's accession to the Covenant. 2. Art. 161 designates the following acts as criminal offences: (a) the printing or publication of that are reversed by members of a religious community, whose rites are performed in public, in such a way as to deliberately distort and alter the meaning of the text of those scriptures; (b) mimicry of a religious celebration in a public place with the aim of ridiculing it or exposing it to public view.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 19 1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.	Article 47 Freedom of opinion is guaranteed. Every person is entitled to express and disseminate his opinion orally, in writing, graphically or through any other medium of expression, within the limits of the law. Self-criticism and constructive criticism guarantee sound national development. Article 48 Freedom of the press and of printing, publishing and the information media is guaranteed. Administrative censorship, cautioning, suspension or prohibition of the publication of newspapers are not permissible. By way of exception, during a state of emergency or in time of war, limited censorship may be imposed on newspapers, publications and the information media in matters relating to public safety or in the interests of national security, as provided by law. Article 49 The State shall ensure that its citizens enjoy freedom of scientific research and of literary, artistic and cultural creativity and shall provide the requisite facilities to encourage them to exercise this freedom. Article 206 The press is an independent, popular authority which functions in the manner prescribed in the Constitution and the law.	General comments A. The Publications Act No. 20 of 1936 1. Art. 9 stipulates that the Council of Ministers may prohibit the circulation of foreign publications in the country, as well as their reprinting or republication for distribution, if such a measure is necessary to preserve public order. 2. Art. 10 stipulates that the Council of Ministers may prohibit the circulation in Egypt of publications which excite passions or attack religion in a manner likely to disturb the peace. B. Act No. 430 of 1955, concerning censorship of artistic works 1. Art. 1 stipulates that artistic works may be subjected to censorship in order to protect public morality, maintain public order and security and safeguard the higher interests of the State. 2. Arts. 12 and 13 prescribe the manner in which appeals can be lodged against decisions taken by the authority responsible for censorship. C. The Press Authority Act No. 148 of 1980 Art. 1 stipulates that the press is an independent, popular authority which functions freely in the service of society. It expresses, and helps to form and guide, trends in public opinion in various ways within the framework of the basic principles governing society, without prejudice to public freedoms, rights and obligations and with due regard for the inviolability of the private life of citizens.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 19 (continued)	Article 207 The press shall function freely and independently in the service of society as a means to express, and help to form and guide, trends in public opinion within the framework of the basic principles governing society, without prejudice to public freedoms, rights and obligations and with due regard for the inviolability of the private life of citizens, in accordance with the Constitution and the law. Article 208 Freedom of the press is guaranteed and administrative censorship, cautioning and suspension or prohibition of the publication of newspapers are not permissible, except as provided by the Constitution and the law. Article 209 Freedom of publication and ownership of newspapers by public and private bodies corporate and political parties is guaranteed in accordance with the law. The ownership, funding and assets of newspapers are subject to control by the people in the manner prescribed in the Constitution and the law. Article 210 Journalists have the right to obtain news and information in the manner prescribed by law. In the discharge of their duties, they are subject to no authority other than that of the law. (Arts. 206-210 were added in the light of the results of the referendum held on 22 May 1981).	General comments D. The Copyright Act No.354 of 1954. 1. Art. 5 recognizes the author's exclusive right to publish his work and to determine the manner in which it is to be published. He also has the exclusive right to exploit his work financially or in any other way. These rights cannot be exercised by third parties without the prior written consent of the author or his successors. 2. Art. 43 recognizes the author's right to demand protection from infringements of his copyright by applying to a court of first instance, the president of which is empowered to issue an order suspending publication, impounding the infringing items, halting their public circulation and assigning the income therefrom solely to the author, subject to appeal. 3. Art. 47 stipulates that infringement of a copyright or imitation of a protected work is a criminal offence punishable by a fine. A repeated offender is liable to imprisonment and/or a fine and the judgement handed down against him, which may also provide for closure of his establishment and confiscation, may be published, at his expense, in a newspaper.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 20 1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.	As affirmed in the document proclaiming the Constitution, the Egyptian people is fully committed to exerting every effort to achieve social harmony for our world. Article 3 Sovereignty is vested solely in the people, which is the source of authority. The people shall exercise and protect this sovereignty and shall safeguard national unity in the manner specified in the Constitution. Article 7 Society is based on social solidarity. Article 55 Citizens have the right to form associations in the manner prescribed by law. It is prohibited to establish associations the activities of which are opposed to the social system, clandestine or of a military nature. Article 60 Every citizen has an obligation to protect national unity and safeguard State secrets.	The Penal Code (Act No. 58 of 1937) 1. Art. 98 (b) stipulates that it is a criminal offence to use force, terrorism or any other unlawful means to advocate, in any way, changes in the fundamental principles of the Constitution or the basic rules governing society or to attempt to secure the predominance or elimination of a particular social class. 2. Art. 98 (b) bis stipulates that it is a criminal offence to possess or procure publications or written documents advocating or promoting any of the above-mentioned concepts. 3. Art. 98 (f) stipulates that it is a criminal offence to exploit religion in order to promote or advocate extremist ideologies by word of mouth, in writing or in any other manner with a view to stirring up sedition, disparaging or belittling any divinely-revealed religion or its adherents or disrupting national unity and social harmony. (Added by Act No. 19 of 1982 after Egypt's accession to the Covenant). 4. Art. 1974 stipulates that it is a criminal offence to advocate or promote, by any legally recognized method of public expression, ideologies calling for the use of force to change the fundamental principles of the Constitution or the basic rules governing society. 5. Art. 176 stipulates that it is a criminal offence to instigate antagonism towards, or contempt for, a particular community or communities in a manner likely to lead to a disturbance of the peace.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 20 (continued)		Note: Under the terms of art. 5, para. (d), of Act No. 33 of 1978, concerning protection of the internal front and social harmony, persons convicted of these offences are barred from membership of political parties and are not permitted to exercise political rights until they have been restored to good standing or pardoned. Act No. 95 of 1980, concerning the protection of values 1. Art. 1 stipulates that every citizen has an obligation to protect the basic values of society, the violation of which is a culpable act entailing political responsibility. 2. Art. 2 explains that these basic values are the principles embodied in the Constitution and the law with a view to safeguarding the rights, religious values and political, economic, social and moral standards of the people, preserving the traditional character of the Egyptian family and protecting national unity and social harmony. 3. Art. 3 stipulates that anyone who publicly commits any of the following acts in any of the ways defined in art. 271 of the Penal Code shall be held politically responsible: (a) advocacy of concepts incompatible with the provisions of divinely-revealed religious laws. (b) encouragement of delinquency among children and youth by urging them to abandon religious values or patriotism. (c) publication or propagation of false or tendentious rumours prejudicial to the country's national interests.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 20 (continued)		(d) the offences specified in Act No. 4 of 1977, concerning the regulation of political parties, and Act No. 33 of 1978, concerning protection of the internal front. 4. Art. 4 prescribes the penalties, ranging in duration from six months to five years, that can be imposed on persons found guilty of these offences: (a) forfeiture of the right to stand as a candidate in elections to national and local assemblies. (b) forfeiture of the right to be appointed, or to stand as a candidate in elections, to the governing bodies of public companies or institutions, trade unions, federations, clubs, press associations and societies. (c) forfeiture of the right to found political parties or participate in the management or membership thereof. (d) forfeiture of the right to occupy posts or engage in occupations which influence the formation of public opinion or the education of young persons. 5. Arts. 5-26 stipulate that the Socialist Public Prosecutor is the authority competent to carry out investigations and bring legal action in connection with these offences. They also specify his field of jurisdiction and the manner in which he is to be appointed and stipulate that his assistants must be members of judicial bodies appointed with the approval of the Council of the Judiciary. 6. Arts. 27-50 make provision for the establishment of a Court of Values competent to adjudicate in cases referred to it by the Socialist Public Prosecutor. They also make provision for the establishment of a Higher Court of Values to hear appeals against judgements handed down by the Court of Values. Both Courts are presided over by a vice-president of the Court of Cassation and include among their members a number of justices of the Court of Cassation or the Courts of Appeal and a similar number of public personalities.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 20 (continued)		Under the terms of those articles, the Court must follow the prescribed procedures in a manner consistent with the rules and procedures laid down in the Code of Civil Procedure and the Code of Criminal Procedure. 7. Arts. 51-58 permit a review of final judgements in certain legally defined circumstances and also empower the President of the Republic to grant a pardon. An acquittal by the criminal courts on the ground of lack of proof or the non-criminal nature of the offence, constitutes probative evidence in the Court of Values. Judicial applications The Constitutional Court has ruled that the Court of Values, established under the terms of Act No. 95 of 1980, should be regarded as the natural judge intended by Art. 68 of the Constitution, since it is a judicial body established as a permanent court to exercise the functions assigned to it, including adjudication in cases involving the sequestration of the property of individuals and bodies corporate in accordance with the provisions of articles 2 and 3 of Act No. 34 of 1971, concerning the regulation of sequestration and measures to ensure public safety, pursuant to the rules laid down in the latter Act and Act No. 95 of 1980. Those rules are intended to ensure that litigants appearing before that Court enjoy legal safeguards, such as the right of defence and the right to be heard. The procedures for appeal against its judgements are also regulated therein. (Constitutional cases Nos. 139 and 140, judicial year five, hearing of 21 June 1986). No case involving political accountability has ever been brought before the Court of Values pursuant to Act No. 95 of 1980.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 21 The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.	Article 54 Citizens have the right of peaceful private assembly, in which weapons must not be carried, without the need for prior notification. Security officials are not permitted to attend these private gatherings. Public assembly, processions and gatherings are permitted within the limits prescribed by law.	A. The Public Assembly Act No. 14 of 1923 1. Art. 1 stipulates that public gatherings are permitted in the manner prescribed by law. 2. Arts. 2-9 stipulate that the security authorities must be given three days' prior notice of public gatherings, demonstrations and processesions in the manner and the form prescribed by law. They may be banned if the local governor or police feel that they will lead to a disturbance of public order or public security due to their underlying purpose, their timing or location or any other significant reason. An appeal against such a ban may be lodged with the Minister of the Interior. Note: 1. A rejection of such an appeal is regarded as an administrative decision which may be challenged by means of a petition to the Council of State. 2. Act No. 194 of 1983 repealed Act No. 2 of 1977 which was promulgated, in the wake of the riots and acts of sabotage which took place in the country in 1977, on the basis of a popular referendum which approved a penalty of hard labour for life for workers who deliberately and of their own free will participated in a strike aimed at the achievement of a common purpose if the said strike posed a threat to the national economy.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 21 (continued)	Article 54 (continued)	The Riotous Assembly Act No. 10 of 1914 1. Art. 1 stipulates that it is a criminal offence to refuse to comply with police orders calling for the dispersal of a gathering consisting of not less than five persons if the said gathering is likely to disturb the peace. 2. Arts. 2, 3, 3 bis and 4 stipulate that it is a criminal offence to assemble for the purpose of committing an offence, preventing or impeding the enforcement of laws or regulations, influencing the authorities in their work or depriving a person of his freedom to work through the use or threatened use of force. The instigators of the gathering are liable to a penalty, which is increased in cases involving the carrying of weapons, the use of force or the commission of acts of sabotage.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 22 1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right. 3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.	Article 55 The establishment of trade unions and federations on a democratic basis is a right guaranteed by law. They shall enjoy corporate personality. The law shall regulate the participation of trade unions and federations in the implementation of social plans and programmes, the improvement of standards of efficiency, the promotion of socialist behaviour among their members, and the protection of their funds. They have an obligation to call their members to account for their behaviour during the exercise of their activities, in accordance with moral codes of honour, and to defend the legally recognized rights and freedoms of their members.	The Trade Union Act No. 35 of 1976 1. Art. 2 stipulates that the provisions of the Act apply to the civil service, local government authorities, public bodies, the public, private and cooperative sectors, agricultural workers and domestic servants. 2. Art. 3 stipulates that a worker is free to join or withdraw from a trade union. 3. Art. 5 stipulates that trade unions have the right to take legal action to defend their interests and the interests of their members in matters pertaining to labour relations. They also have the right to intervene, in support of their members, in any legal proceedings concerning labour relations. 4. Art. 7 stipulates that trade unions must be structured in the form of a pyramid comprising the trade-union committees in the enterprises or occupation, the national trade union and the trade union federation. The officers of the trade-union committees are elected by direct, public, secret ballot and they, in turn, elect two representatives of the committee to the union's general assembly. The union's executive committee elects two persons to represent it in the federation. 5. Art. 8 stipulates that the purpose of trade unions is to protect the legitimate rights of their members, defend their interests, enhance their working conditions and terms of employment and improve the health, economic and social situation of their members and their families. 6. Art. 74 stipulates that it is a criminal offence for the owner or manager of an enterprise to dismiss or penalize a worker in order to force him to join, refrain from joining or withdraw from a trade union or because of his engagement in any legitimate trade-union activity.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 23 1. The family is the natural fundamental group unit of society and is entitled to protection by society and the State. 2. The right of men and women of marriageable age to marry and to found a family shall be recognized. 3. No marriage shall be entered into without the free and full consent of the intending spouses. 4. States parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.	Article 9 The family, which is the keystone of society, is based on religion, morality and patriotism. The State shall endeavour to preserve the time-honoured character of the Egyptian family, with all the values and traditions that it embodies, and to consolidate and develop this character in relations within Egyptian society. Article 10 The State undertakes to protect mothers and children, to cater for the welfare of the younger generation and youth, and to provide appropriate conditions for the development of their talents. Article 11 The State undertakes to reconcile the duties of women towards their families with their work outside the home on the basis of their equality with men in the political, social, cultural and economic spheres of life, without prejudice to the provisions of the Islamic Shari'a. Article 17 The State undertakes to provide social and health insurance services and disability, unemployment and old-age pension benefits for all citizens, in accordance with the law.	A. The Civil Code (Act No. 131 of 1948) 1. Arts. 34 and 35 define the family and degrees of kinship. 2. Art. 37 stipulates that the relatives of one of the spouses are regarded as being in the same degree of kinship to the other spouse. B. Act No. 25 of 1920, concerning some matters of personal status 1. Art. 20 stipulates that, in the event of the dissolution of the marriage bond, the woman has custody of her children until the age of 10 in the case of boys and 12 in the case of girls. This period of custody may be extended to the age of 15 in the case of boys and until marriage in the case of girls, without remuneration, if the judge finds that such would be in their interests. 2. Art. 18 bis (ii) stipulates that the father has an obligation to maintain his young children if the latter do not have money of their own. In the case of girls, this obligation continues until marriage or until such time as they become self-supporting and, in the case of boys, until they reach the age of 15 and are able to earn a living. The amount of maintenance that the father must pay in respect of his children is determined in the light of his wealth and in such a way as to ensure that they enjoy an appropriate standard of living. C. The Code of Criminal Procedure (Act No. 150 of 1950) Art. 286 stipulates that an accused person's ascendants, descendants and relations by blood or marriage to the second degree, including his spouse, even if divorced, have the right to refrain from testifying against him in order to preserve their family ties.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 23 (continued)		D. The Child Custody Act No. 118 of 1952 The provisions of the Act apply to cases involving parental kidnapping and also define the circumstances in which custody must be transferred in order to protect young children. E. The Guardianship of Property Act No. 119 of 1952 The provisions of this Act, which are designed to protect persons lacking legal capacity, apply to guardianship, wardship, tutelage, legal aid, interdiction and prolonged absence. They define the circumstances in which such guardianship can be imposed and lifted. F. The Solemnization of Marriages Regulations 1. Art. 33 (a) stipulates that the minimum legal age for the conclusion of a contract of marriage is 16 for women and 18 for men. 2. Art. 33 (b) stipulates that the official solemnizing the marriage must ascertain that there is nothing in the religious or secular law to impede the union of the couple. Note: Marriage is a consensual contract requiring the full consent of both parties.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 24 1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. 2. Every child shall be registered immediately after birth and shall have a name. 3. Every child has the right to acquire a nationality.	Article 10 The State undertakes to protect mothers and children, to cater for the welfare of the younger generation and youth, and to provide appropriate conditions for the development of their talents.	A. The Civil Code (Act No. 131 of 1948) 1. Art. 30 stipulates that births and deaths must be recorded in the official registers maintained for that purpose. 2. Art. 38 stipulates that every person must have a first and a family name. 3. Art. 47 stipulates that persons lacking in legal capacity are subject to guardianship, wardship or tutelage, in accordance with the provisions of the Act. B. The Nationality Act No. 26 of 1975 Art. 2 stipulates that the right to Egyptian nationality is enjoyed by every person born to an Egyptian father, an Egyptian mother and a father of unknown nationality, an Egyptian mother and an unknown father, or unknown parents. A foundling is deemed to have been born in Egypt failing proof to the contrary. C. The Civil Status Act No. 260 of 1960 1. Arts. 15-23 define the procedures and circumstances, as well as the persons who have an obligation to report and register births and to name and register foundlings. 2. Art. 57 stipulates that it is a criminal offence to fail to report births or to violate the provisions concerning their registration.

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 25 Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.	Article 5 The political system in the Arab Republic of Egypt is a multi-party system within the framework of the fundamental principles on which Egyptian society is based, as defined in the Constitution. Political parties are regulated by law. Article 8 The State guarantees equality of opportunity for all its citizens. Article 40 All citizens are equal before the law and in regard to their public rights and duties, without distinction as to sex, origin, language, religion or belief. Article 62 Every citizen has the right to vote and stand as a candidate in elections and to express an opinion in referendums, as provided by law. Participation in public life is a national duty. Article 87, paragraph 1 The law shall determine the electoral constituencies into which the State is divided. The elected members of the People's Assembly must not be less than 350 in number, at least half of whom must be workers and farmers elected by direct, secret, public ballot.	A. Act No. 73 of 1956, regulating the exercise of political rights 1. Art. 1 stipulates that, on reaching the age of 18 Gregorian years, every Egyptian must exercise his political rights in person by expressing his opinion in the public referendums that are held in accordance with the Constitution, by electing the President of the Republic and by electing the members of the People's Assembly, the Advisory Council and the local councils. Members of the police and the armed services are exempt from this obligation throughout their period of service. (The first paragraph was amended by Act No. 202 of 1990, which added the election of members of the Advisory Council and the local councils). 2. Art. 2 specifies the cases in which persons may be prohibited from exercising political rights. These are confined to persons sentenced to a criminal penalty for a felony (until such time as they are restored to good standing), to a penalty of imprisonment for certain specified offences prejudicial to honour and integrity (until such time as they are restored to good standing or unless the sentence is suspended) or to tutelage under the terms of a court order, and persons who have been dismissed from government service or the public sector. 3. Under the terms of Art. 15, appeals against inclusion or non-inclusion in these lists, on grounds of erroneous information, may be lodged with a committee established for this purpose. Decisions of the committee may be challenged by appeal to the competent court of first instance in accordance with Art. 17 of the Act. 4. Art. 41 (a), stipulates that it is a criminal offence to use force or threats to prevent a person from voting in an election or to force him to vote therein.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 25 (continued)	Article 162, para. 1 Local people's councils shall be formed gradually, through direct elections, in the various administrative units. At least half the members of each people's council must consist of workers and farmers. Legal provision shall be made to ensure that authority is gradually transferred to these councils. Article 196 An Advisory Council shall be formed, consisting of not less than 132 members, the exact number being determined by law. Two-thirds of the members of the Council shall be elected by direct, secret, public ballot and at least half of them shall be workers and farmers. The remaining third shall be appointed by the President of the Republic.	B. The People's Assembly Act No. 38 of 1972, as amended by Act No. 201 of 1990 1. Art. 1 stipulates that the members of the People's Assembly shall be chosen by direct, secret, public election. The Assembly consists of 444 members, no more than ten of whom may be appointed by the President of the Republic. 2. Art. 15 stipulates that the candidates elected shall be those who obtain an absolute majority of the valid votes cast. 3. Art. 4 stipulates that the duration of the People's Assembly shall be five Gregorian years from the date of its first meeting and new elections must be held 60 days before the expiration of the duration of the current Assembly. C. The Advisory Council Act No. 120 of 1980, as amended by Act No. 10 of 1989 1. Art. 1 stipulates that the Advisory Council consists of 258 members, two-thirds of whom must be elected by direct, secret, public ballot, the remaining third being appointed by the President of the Republic. 2. Art. 3 stipulates that the duration of the Council is six years and half of its elected and appointed members must seek a renewal of their mandate every three years. D. The Local Government Act No. 43 of 1979 The Act makes provision for the formation of local people's councils, elected for a period of four years, in the various governorates, agglomerations, cities, district centres and villages. Elections thereto take place in accordance with the rules and procedures laid down in the said Act and in Act No. 73 of 1956 which regulates the exercise of political rights.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 25 (continued)		E. The Political Parties Act No. 40 of 1977 1. Art. 1 stipulates that Egyptians have the right to form political parties and every Egyptian has the right to belong to any political party, in accordance with the provisions of the law. 2. Art. 4, para. 3, stipulates that membership of a political party must not be restricted to a particular social class, category, community or geographical area and parties must not pursue a policy of discrimination in regard to sex, origin, religion or belief. Judicial applications 1. The Supreme Constitutional Court has ruled that the legislative texts concerning the holding of public elections to the People's Assembly, the Advisory Council and the local councils solely on the basis of party lists is unconstitutional in so far as persons who are not members of political parties are thereby deprived of their right to participate and those texts therefore constitute a violation of the provisions of arts. 8, 4 and 62 of the Constitution (cf. judgement handed down at the hearing of 16 May 1987 in constitutional case No. 131, judicial year 6, concerning the People's Assembly Act; judgement handed down at the hearing of 15 April 1989 in constitutional case No. 14, judicial year 8, concerning the Local Government Act; and judgement handed down at the hearing of 15 April 1989 in constitutional case No. 23, judicial year 8, concerning the Advisory Council Act). The above-mentioned Acts were amended by combining the system of party lists with the election of one independent candidate in each constituency.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 25 (continued)		2. The Supreme Constitutional Court has ruled that the legislative texts concerning the holding of elections to the People's Assembly by combining the system of party lists with the direct election of one independent candidate in each constituency is unconstitutional in so far as it violates arts. 8, 4 and 62 of the Constitution by discriminating between categories of candidates on the basis of their differing political opinions (case No. 37, judicial year 9, hearing of 19 May 1990). The People's Assembly Act and the Advisory Council Act were amended in the light of the above judgement. The system of direct election was reintroduced and the party lists referred to in those Acts were abolished.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 26 All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, labguage, religion, political or other opinion, national or social origin, national or social origin, property, birth or other status.	Article 14 Citizens have the right of access to public office, the occupants of which have a duty to serve the people. The State undertakes to protect them and to ensure that they perform their duty of safeguarding the interests of the people. They cannot be dismissed for other than disciplinary reasons except in the circumstances defined by law. Article 16 The State undertakes to provide cultural, social and health services and, in particular, to ensure that villages have easy and regular access to a higher standard of services. Article 17 The State undertakes to provide social and health insurance services and disability, unemployment and old-age pension benefits for all citizens, in accordance with the law. Article 18 Education, which is a right guaranteed by the State, is compulsory at the primary level and the State shall endeavour to make it compulsory at other levels. The State shall supervise all forms of education and shall safeguard the independence of universities and scientific research centres in such a way as to establish a closer interrelationship between education and social and production needs. Article 40 All citizens are equal before the law and in regard to their public rights and duties, without distinction as to sex, origin, language, religion or belief.	General note: Egyptian legislation does not discriminate or distinguish between citizens on any grounds or for any reason whatsoever. This is confirmed by the following legislative texts: 1. Art. 4, para. 3 of the Political Parties Act No. 40 of 1977 stipulates that membership of a political party must not be restricted to a particular social class, category, community or geographical area and parties must not pursue a policy of discimination in regard to sex, origin, religion or belief. 2. Art. 151 of the Labour Law (Act No. 137 of 1981) stipulates that all the provisions regulating the employment of male workers also apply, without discrimination, to the employment of female workers engaged in the same type of work.

Annex II (continued)

Art. of the International Covenant	Corresponding arts. of the Egyptian Constitution	Corresponding arts. of other Egyptian legislation, with comments
Article 27 In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion or to use their own language.	Article 46 The State guarantees freedom of belief and freedom of religious observance. -----	Note: Egypt has not promulgated any special legislation concerning minorities, which do not exist in Egyptian territory. Legal protection of religions is provided for under the terms of the Constitution and the law, as already indicated.